

## ADVERTISEMENT FOR BIDS

Electronic bids for the construction of

«F2»

«F5»

at Iowa State University, Ames, Iowa will be received by the Board of Regents, State of Iowa, at [www.bidexpress.com](http://www.bidexpress.com) prior to 2:01 p.m. local Iowa time, on the «F50» day of «F50», and will then be publicly opened and read aloud, via WebEx - see [plans@iastate.edu](mailto:plans@iastate.edu) for link.

«F49» Questions regarding the scope of work should be directed to «F20» of «F15», Phone: «F22», E-mail: «F21».

Project Information: Substantial Completion: «F53»  
**Error! Bookmark not defined.**

Final Completion: «F55»

Bid Estimate: «F90»

Prebid Meeting: «F40»  
«F41» - see [plans@iastate.edu](mailto:plans@iastate.edu) for link

Site Tour(s): «F43»; «F44»  
«F45»; «F46»

Site Tour(s) Location Meeting Site: **Error! Bookmark not defined.**

**Error! Bookmark not defined.** Bids will be received for a single General Construction Contract.

Iowa Construction Sales Tax Exemption Certificates will be provided on this project.

Bidding Documents may be examined at locations listed on the Building for Iowa State website: [https://www.fpm.iastate.edu/construction\\_projects/bid\\_dates.asp](https://www.fpm.iastate.edu/construction_projects/bid_dates.asp).

Bidding Documents may be obtained from: Iowa State Printing Services, Iowa State University, 101 Printing & Publications Building, 2333 Kooser Drive, Ames, Iowa 50011-1099, email [plans@iastate.edu](mailto:plans@iastate.edu), phone 515-294-4538, fax 515-294-5098. No deposit is required. All bidders must return the complete set of Bidding Documents to the above address within fifteen (15) days after opening of bids.

Each bid shall be submitted using the electronic bidding documents provided at [www.bidexpress.com](http://www.bidexpress.com) and shall include bid security as set forth in the Instructions to Bidders.

Bid security shall be agreed upon as the measure of liquidated damages which the Owner will sustain by failure, neglect or refusal of bidder to deliver a signed contract stipulating performance of the Work in unqualified compliance with Contract Documents. Successful bidder will be required to furnish a Contract Performance and Payment Bond in the amount of 100% of the contract sum within ten (10) days after receipt of Notice of Award.

No bid may be withdrawn for a period of **Error! Bookmark not defined.** forty-five (45) calendar days after the date of opening.

The Board of Regents, State of Iowa seeks to provide opportunities for Targeted Small Businesses in accordance with the provisions of Chapter 73 of the Code of Iowa. This project has a participation goal of **!Syntax Error**, « for certified Targeted Small Businesses as specified in the Project Requirements.

By virtue of statutory authority, a preference will be given to products and provisions grown and coal produced within the state of Iowa.

The Board of Regents, State of Iowa, reserves the right to reject any and all bids, to waive irregularities and to accept that bid which is deemed in the best interest of the Owner.

By Order of the Board of Regents, State of Iowa.

Mark Braun  
Executive Director

**END OF SECTION**

SAMPLE

## **INSTRUCTIONS TO BIDDERS**

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## **ARTICLE 1 - RECEIPT AND OPENING OF BIDS**

- 1.1 The Board of Regents, State of Iowa, hereinafter called the "Owner", will receive bids using the electronic bidding documents provided at [www.bidexpress.com](http://www.bidexpress.com) prior to 2:01 p.m. local Iowa time on «F50». Bids confirmed to be responsive will then be publicly opened and read aloud.
- 1.2 Each Bidder shall be solely responsible for electronically submitting their bid before the time specified in Paragraph 1.1 above.

## **ARTICLE 2 - PREPARATION OF BIDS**

- 2.1 Bids shall be prepared as instructed at [www.bidexpress.com](http://www.bidexpress.com). All fields marked with an \* are required and must be completed before submitting the bid.

## **ARTICLE 3 - IOWA TARGETED SMALL BUSINESS PROGRAM**

### 3.1 PROGRAM DESCRIPTION

- 3.1.1 The Board of Regents, State of Iowa, seeks to provide opportunities for Targeted Small Businesses in the awarding of contracts. The Regents are authorized to award contracts to Targeted Small Businesses in accordance with the provisions of Chapter 73 of the Code of Iowa. The Regents are also authorized to establish certified Targeted Small Business participation goals for construction contracts. Further information is available at <https://iowaeda.microsoftcrmporals.com/tsb-search/>
- 3.1.2 Certified Iowa Targeted Small Business participation will be specified as a percentage of the Bidder's base bid as identified in the Project Requirements of the Contract Documents.

## **ARTICLE 4 - SUBMITTAL OF BIDS**

- 4.1 Bids shall be submitted using the electronic bidding documents provided at [www.bidexpress.com](http://www.bidexpress.com).

## **ARTICLE 5 - MODIFICATION OF BIDS**

- 5.1 Modifications to the bid may be made prior to the submission deadline stated in Article 1; 1.1.

## **ARTICLE 6 - WITHDRAWAL OF BIDS**

- 6.1 Any bid may be withdrawn prior to the time set for the receipt of bids. No bid may be withdrawn for a period of forty-five (45) calendar days thereafter.

## **ARTICLE 7 - BID SECURITY FOR NON-TARGETED SMALL BUSINESS BIDDERS**

- 7.1 Bids shall be secured only by bid bond, certified check, cashier's check, or cash deposit in an amount of at least five percent of the bid. Bids must be submitted via [www.bidexpress.com](http://www.bidexpress.com); bids can be secured with an electronically-verified bid bond within the bid at [www.bidexpress.com](http://www.bidexpress.com) or, with the exception of a cash deposit, a scanned copy of the bid security can be uploaded into the bid at [www.bidexpress.com](http://www.bidexpress.com). Cash deposits must be **hand-delivered only** at the address below prior to the bid-opening deadline.

If one of the three (3) low bidders with a bid secured by cashier's or certified check, bidder must deliver the original check within forty-eight (48) hours of the bid opening to the University by one of the following methods:

**Mailed or Hand-delivered** to Iowa State University, Kathy McKown, 200 General Services Building, 700 Wallace Road, Ames, IA 50011-4013.

The envelope should be marked with the Bidder Name, Project Name, and noted it is Bid Security.

Bids accompanied and secured by any other form of bid security shall automatically be disqualified.

- 7.2 Certified checks and cashier's checks shall be made payable to the Board of Regents, State of Iowa.
- 7.3 Bid bonds must be executed solely by corporations authorized to contract as surety in Iowa. Persons who sign surety bonds must file with each bond a certified and effectively dated copy of their power of attorney.
- 7.4 Bid security shall be agreed upon as the measure of liquidated damages which Owner will sustain by failure, neglect or refusal of bidder to deliver a signed contract stipulating performance of the work in unqualified compliance with contract documents within ten (10) days after notification of award of contract is given.
- 7.5 Bid security when submitted in the form of either a cash deposit, cashier's check, or a certified check by any bidder except the three lowest bidders will be returned within forty-eight hours after opening.
- 7.6 Bid security when retained will, if either a cash deposit, cashier's check, or a certified check, be returned within forty-eight hours after the contract and performance and payment bond of the successful bidder has been executed by the Board of Regents, State of Iowa. If the award process involves more than the bid holding time established in the Bidding Documents, those bidders whose securities are retained shall have the right to negotiate with the Board of Regents, State of Iowa on the matter.

## **ARTICLE 8 - BID SECURITY FOR TARGETED SMALL BUSINESS BIDDERS**

- 8.1 On projects where bid amount exceeds \$50,000, bid security must be provided in accordance with Article 7-Bid Security for Non-Targeted Small Business Bidders.
- 8.2 On bids of \$50,000 or less, Certified Targeted Small Businesses, as part of the bid documents, may either provide a bid security in accordance with Article 7-Bid Security for Non-Targeted Small Business Bidders **OR** a bond waiver from the Department of Inspections and Appeals.

## ARTICLE 9 - QUALIFICATION OF BIDDERS

- 9.1 Bidders shall submit with each bid a completed Board of Regents, State of Iowa Equal Employment Opportunity Data Reporting Form OR the Certificate of Reporting, which certifies that an Equal Employment Opportunity Data Reporting Form has been filed with Board of Regents, State of Iowa Equal Employment Opportunity Compliance Officer. The bidder's attention is called to the requirements of the Code of Fair Practices in the General Conditions of the Contract.
- 9.2 Bidders shall be registered with the Iowa labor commissioner. To obtain an Iowa Contractor Registration No. contact the following office:
- Iowa Division of Labor  
Contractor Registration  
1000 East Grand Avenue  
Des Moines, IA 50319-0209  
Telephone: 515-242-5871  
Fax: 515-281-7995
- Bidders Iowa Contractor Registration number shall be included as provided for on the Form of Bid.
- 9.3 Non-resident corporations submitting bids must be in compliance with Section 490.1501 of the Code of Iowa and legally authorized thereby to carry on such business in the State of Iowa.
- 9.4 The Owner may make such investigations as deemed necessary to determine the ability of the bidder to perform the Work, and the bidder shall furnish to the Owner all such information and data for these purposes as the Owner may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder fails to satisfy the Owner that such bidder is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein.
- 9.5 By virtue of statutory authority, preference will be given to products and provisions grown and coal produced within the state of Iowa.
- 9.6 Bidders are advised that following a preliminary evaluation by the Owner of the bids, the potential low Bidder may be invited to an interview with the Owner.
- 9.6.1 At such time, the Bidder may be asked to address, at a minimum, the following questions, and also may be asked to provide documentary evidence supporting the Constructor's responses.
- 9.6.1.1 What experience does the Bidder have with projects of similar type, complexity and size? Can the Bidder supply references from Owners of those projects, if requested (including names and contact information)?
- 9.6.1.2 Has the Bidder successfully completed similar projects? Please list most recent.
- 9.6.1.3 What experience does the Bidder have with managing projects of this size and complexity with the projected aggressive schedule?
- 9.6.1.4 What project management and scheduling software does the Bidder employ or plan to employ for this project, and has the Bidder employed this software on past projects of similar size, complexity and duration?
- 9.6.1.5 Does the Bidder have other projects scheduled to be constructed during the same time period contemplated for this project, and if so, what are they, and how does the Bidder plan to accommodate these projects to ensure adequate workforce to fulfill the contractual requirements?
- 9.6.1.6 What bonding companies has the Bidder utilized in the past, intends to use for this project, and has the Bidder ever been denied bonding coverage?
- 9.6.1.7 What is the experience level of the Bidder's home office and field management personnel with projects of this size and complexity that the Bidder plans to utilize for the project?

- 9.6.1.8 What is the experience level of the subcontractors with projects of this size and complexity that the Bidder plans to utilize for the project?
- 9.6.1.9 Has the Bidder ever been debarred from bidding by any public owner, and if so, what were the circumstances?
- 9.6.1.10 Does the bidder have any pending or past legal action in the last ten (10) years, and if so, what were the circumstances?
- 9.6.1.11 Has the bidder ever been declared in default under a performance bond in the last ten (10) years, and if so, what were the circumstances?

#### **ARTICLE 10 - SUBCONTRACTORS**

- 10.1 The bidder is requested to name persons, firms or other parties to whom it is intended to award a subcontract under this Contract if and as requested on the Form of Bid.
- 10.2 In accordance with Iowa law, the successful bidder shall furnish in writing to the Owner within forty-eight (48) hours after the award of the contract, a list of the names of subcontractors who will work on the project.
- 10.3 The bidder is specifically advised that any person, firm or other party to whom it is proposed to award a subcontract under this Contract must (1) be registered in the state of Iowa and have an Iowa Contractor Registration number, and (2) be acceptable to the Owner.

#### **ARTICLE 11 - BIDDER'S REPRESENTATION**

- 11.1 Each bidder by submitting a bid, represents that bidder has:
  - 11.1.1. Read and completely understands the contract documents.
  - 11.1.2. Visited the site and is totally familiar with the conditions under which the Work is to be performed including availability and cost of labor and materials.  
  
See Advertisement for Bids for tour information.
  - 11.1.3. Based the bid upon the materials and equipment described in the contract documents.
  - 11.1.4. Agreed that the Contract Time will commence upon receipt of a written Notice of Award or Notice to Proceed from the Owner, and to complete all work in accordance with the Project Milestone Schedule in Article 3 of the Project Requirements, excepting for delays covered in Article 8 of the General Conditions of the Contract.
  - 11.1.5. Given preference to use of Iowa domestic labor and products and provisions grown and coal produced within the state of Iowa.
- 11.2 Failure of the selected bidder to fulfill the representations of this Article shall in no way relieve the obligation of the bidder to furnish all material and labor necessary to carry out the provisions of the contract, nor shall such failure constitute grounds for extra compensation over the price stated in the accepted bid.

## **ARTICLE 12 - SUBSTITUTIONS**

- 12.1 No substitution for the materials and equipment described in the contract documents will be considered during the bidding period unless written request has been submitted to «F15», «F16», «F17», «F18» «F19» for approval at least fourteen (14) days prior to the date set for receipt of bids. Each such request shall include a complete description of the proposed substitute, the name of the material or equipment for which it is to be substituted, drawings, product data, performance and test data and any other data or information necessary for a complete evaluation.
- 12.2 If «F15» approves any proposed substitution, such approval shall not be considered official until it is set forth in an addendum. Bidders are cautioned to refrain from including in their bid any substitutions which are not confirmed by written addenda.

## **ARTICLE 13 - ADDENDA AND INTERPRETATIONS**

- 13.1 Each bidder shall examine the contract documents carefully and, not later than seven (7) calendar days prior to the date set for receipt of bids, shall make written request to «F15», «F16», «F17», «F18» «F19» for interpretation or correction of any ambiguity, inconsistency or error therein which may be discovered.
- 13.2 Any and all interpretations, corrections, revisions, and amendments will be issued to all holders of bidding documents in the form of written addenda. Such addenda will be issued so as to be received at least forty-eight (48) hours prior to the time set for the receipt of bids. All addenda so issued shall become part of the contract documents and shall be acknowledged in the Form of Bid. Addenda are also available electronically on ISU Printing Services website at [www.plans.print.iastate.edu](http://www.plans.print.iastate.edu).
- 13.3 Only those interpretations, corrections, revisions and amendments confirmed by written addenda shall be binding. Bidders are cautioned to refrain from including in their bid any interpretations, corrections, revisions, and amendments which are not confirmed by written addenda.
- 13.4 Any questions relating to the technical specifications may be directed to the following individual:
- Error! Bookmark not defined.** «F20»  
Phone: «F22»  
E-mail: «F21»

## **ARTICLE 14 - BID PREFERENCE**

- 14.1 All bidders shall certify their state or country of domicile by completing the official address section of the Form of Bid.
- 14.2 All bidders shall download, complete and submit with their Form of Bid, the Bidder Status Form as required by Iowa Administrative Code 875, Chapter 156. The form is located at:  
[https://www.iowadivisionoflabor.gov/sites/default/files/2021-11/BP.status.form\\_1.pdf](https://www.iowadivisionoflabor.gov/sites/default/files/2021-11/BP.status.form_1.pdf)



- 14.3 Nonresident bidders are advised that under Iowa law, when a contract for a public improvement is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference as against a nonresident bidder from a state or foreign country if that state or foreign country gives or requires any preference to bidders from that state or foreign country, including but not limited to any preference to bidders, the imposition of any type of labor force preference, or any other form of preferential treatment to bidders or laborers from that state or foreign country. The preference allowed shall be equal to the preference given or required by the state or foreign country in which the nonresident bidder is a resident. In the instance of a resident labor force preference, a nonresident bidder shall apply the same resident labor force preference to a public improvement in this state as would be required in the construction of a public improvement by the state or foreign country in which the nonresident bidder is a resident. "Resident Bidder" means a person or entity authorized to transact business in this state and having a place of business for transacting business within the state at which it is conducting and has conducted business for at least three years prior to the date of the first advertisement for the public improvement. If another state or foreign country has a more stringent definition of a resident bidder, the more stringent definition is applicable as to bidders from that state or foreign country.
- 14.4 Nonresident bidders shall certify on the Form of Bid the resident preference given by their state or country of domicile.

#### **ARTICLE 15 - METHOD OF AWARD**

- 15.1 Owner may reject any or all bids, waive irregularities or technicalities in any bid, and accept any bid in whole or in part which it deems to be in its best interests.
- 15.2 Contract shall be considered awarded when the selected bidder receives a written "Notice of Award" from the Owner.

#### **ARTICLE 16 - EXECUTION OF CONTRACT**

- 16.1 Selected bidder shall, within ten (10) calendar days after receipt of Notice of Award, enter into written contract with the Owner in the Form of Agreement included in these documents, for performance of the work described in the Contract Documents.
- 16.2 The Contract, when duly executed, shall represent the entire agreement between parties.
- 16.3 Simultaneously with the delivery of the executed Contract, the CONSTRUCTOR shall furnish a performance and payment surety bond in the amount of 100% of the Contract Sum as security for faithful performance of the Contract and for the payment of all persons performing labor and furnishing materials for the work, or pursuant to Institution Requirements, evidence of eligibility for waiver of the bond requirements. The bond shall be on the form included herein. The surety on such bond shall be a surety company duly authorized to do business in the state of Iowa. Persons who sign surety bonds must file with each bond a certified and effectively dated copy of their power of attorney.
- 16.4 Completed Contract and Contract Performance and Payment Bond shall be executed and dated the same.

#### **ARTICLE 17 - PARKING**

- 17.1 Ample parking for persons attending bid openings is available at no charge in the southwest corner of the Iowa State Center parking lot. A shuttle bus leaves the Center lot every 15 minutes stopping at the General Services Building and other central campus locations. Limited parking may be available at no charge for a period of one-half hour before and one-half hour after the scheduled time of bid opening in General Staff parking spaces in Lot No. 41, south of Pammel Drive and east of Wallace Road and Lot 68, south of University Boulevard and east of Haber Road. Metered parking is available in Lot No. 100 south of the Lied Recreation/Athletic Facility.

Parking information, including map, for visitors to the General Services Building can be accessed on Building for Iowa State website at [https://www.fpm.iastate.edu/parking\\_guide.asp](https://www.fpm.iastate.edu/parking_guide.asp). For a more detailed campus map see [www.fpm.iastate.edu/maps](http://www.fpm.iastate.edu/maps).

### **ARTICLE 18 - PREBID MEETING**

- 18.1 Bidder is encouraged to attend a prebid meeting as shown in the Advertisement for Bids.

**END OF SECTION**

**BID BOND**

KNOW ALL MEN BY THESE PRESENTS, that we,

\_\_\_\_\_ as Principal, hereinafter called the Principal, a  corporation  partnership  individual duly authorized by law to do business as a construction contractor in the state of Iowa, and

\_\_\_\_\_  
(Surety Company name)

a corporation duly authorized to do a surety business under the Laws of the state of Iowa as Surety, hereinafter called the Surety, are held and firmly bounds unto the Board of Regents, State of Iowa as Obligee, hereinafter called the Obligee, in the penal sum of

\_\_\_\_\_ Dollars \$ \_\_\_\_\_

OR

\_\_\_\_\_ % of the bid

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the principal has submitted a bid for the project named:

\_\_\_\_\_  
\_\_\_\_\_  
NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or type name signed above

\_\_\_\_\_  
Title

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Seal

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or type name signed above

**END OF SECTION**

**Board of Regents, State of Iowa  
EQUAL EMPLOYMENT OPPORTUNITY  
DATA REPORTING FORM**

**INSTRUCTIONS:**

The Board of Regents, State of Iowa asks your cooperation in completing this form, which is designed to gather data relative to your work force. Please include the completed form as part of your bid documents.

- 1. **EMPLOYMENT DATA:** In the first column, include the current total number of employees. These figures should be indicative of your present work force, not those employees working on a particular Regents project.

	Total No. of Employees	Minorities	Females
Officials & Managers			
Professionals			
Office & Clerical			
Plumbers & Steamfitters			
Electrical Workers			
Bricklayers			
Carpenters			
Laborers			
Ironworkers			
Operating Engineers			
Painters			
Sheet Metal Workers			
Elevator Constructors			
Asbestos Workers			
Boilermakers			
Roofers			

2. \_\_\_\_\_ - \_\_\_\_\_  
 Company Name Telephone Number

\_\_\_\_\_  
 Address City State Zip Code

\_\_\_\_\_  
 Date Signature of Official Completing this Report

**END OF SECTION**

**CERTIFICATE OF REPORTING**

The undersigned hereby certifies that he/she has filed an Equal Employment Opportunity Data Reporting Form with one of the Board of Regents, State of Iowa institutions in the past twelve (12) months.

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Company Name

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Address

---

City

State

Zip Code

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Signature of Official Completing this Report

Date

**END OF SECTION**

BOARD OF REGENTS, STATE OF IOWA  
**TARGETED SMALL BUSINESS FORM**

PROJECT: «F2»

\_\_\_\_\_  
 Bidder's Company Name

\_\_\_\_\_  
 Area Code/Telephone

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 City

\_\_\_\_\_  
 State

\_\_\_\_\_  
 Zip Code

**Bidder to fill out Columns 1 through 5 and submit with their bid.**

Column 1 TSB Company Name and Address	Column 2 Phone No.	Column 3 Date(s) Contacted	Column 4 <b>Quotes Received</b> Yes/No	Column 5 <b>Quotation Used in Bid</b> Dollar Amt. Proposed to be Contracted

(Use second sheet if needed.)

If Bidder **did not** contact any certified Targeted Small Businesses then state reason(s) why:

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Signature of Bidder

**END OF SECTION**

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**CONSTRUCTOR PROJECT CONTACTS**

**Project Title:** «F2»

**Capital Project #:** «F5»

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Company Name

Enter the name, email, and phone number for the individuals within your company that will be responsible for the associated project tasks:

**Schedule of Values:** Process and sign-off on schedule of values

Name: \_\_\_\_\_ ; Email: \_\_\_\_\_ ; Phone: \_\_\_\_\_

**Project Manager:**

Name: \_\_\_\_\_ ; Email: \_\_\_\_\_ ; Phone: \_\_\_\_\_

**Superintendent:**

Name: \_\_\_\_\_ ; Email: \_\_\_\_\_ ; Phone: \_\_\_\_\_

**Primary Payment Application Approver:** Process and sign-off on pay apps

Name: \_\_\_\_\_ ; Email: \_\_\_\_\_ ; Phone: \_\_\_\_\_

**Secondary Payment Application Approver:** Process and sign-off on pay apps

Name: \_\_\_\_\_ ; Email: \_\_\_\_\_ ; Phone: \_\_\_\_\_

*Note: The listed contacts are required for Iowa State's procedures and can be updated at any time. They will be used in the event your company is awarded the construction contract for this project.*

**END OF SECTION**

**FORM OF AGREEMENT BETWEEN CONSTRUCTOR AND OWNER**

This AGREEMENT made the «F56» day of «F56» in the year «F56» BY AND BETWEEN «F29», hereinafter called the CONSTRUCTOR, and the Board of Regents, State of Iowa, hereinafter called the Owner, on behalf of Iowa State University, WITNESSETH, that the CONSTRUCTOR and the Owner for the considerations hereinafter named agree as follows:

Article 1. Scope of the Work - The CONSTRUCTOR shall furnish all of the materials and perform all of the Work shown on the Drawings and/or described in the Specifications entitled:

**«F2»**

prepared by «F15», acting as and, in these Contract Documents entitled, the Design Professional. The CONSTRUCTOR shall do everything required by this Agreement, and the Contract Documents for the completion of the Contract.

**Error! Bookmark not defined.**Article 2. Commencement and Completion of Work - The work to be performed under this Agreement shall be completed by «F55». It is agreed that the Contract Time is of prime importance and of the essence of this Agreement and that failure to complete the Work on schedule will cause the Owner to sustain substantial damages. The Contract Time will, however, be extended in the event of occurrence of any conditions described in Paragraph 6.3 of the General Conditions of the Contract.

Article 3. The Contract Sum - The Owner shall pay the CONSTRUCTOR for the performance of the Contract, subject to additions and deductions provided therein, in current funds the NET CONTRACT SUM indicated below:

BASE PROPOSAL	\$ _____
ALTERNATE NO. 1 (add)deduct)	\$ _____
ALTERNATE NO. 2 (add)deduct)	\$ _____
ALTERNATE NO. 3 (add)deduct)	\$ _____
ALTERNATE NO. 4 (add)deduct)	\$ _____
NET CONTRACT SUM	\$ _____

Article 4. Progress Payments - The Owner will make partial progress payments to the CONSTRUCTOR not more than once a month on the basis of a certified estimate of the work performed and material satisfactorily stored, the value of which is substantiated by vendors' priced invoices, as set forth in the General Conditions of the Contract. The Owner will withhold five percent (5%) from each progress payment, after any applicable adjustment in accordance with this Agreement, until final payment, consistent with the provisions of Chapters 262 and 573 of the Code of Iowa.

Article 5. Acceptance and Final Payment - Final payment of the remaining portion of the contract will be made thirty days after fulfillment of all requirements of the Contract Documents and acceptance by the Board of Regents, State of Iowa, provided no claims have been filed against payments due the CONSTRUCTOR.



**Error! Bookmark not defined.**Article 6. The Contract Documents - This instrument, together with the documents enumerated below, form the Contract, and they are as fully a part of the Contract as if hereto attached:

1. Advertisement for Bids**Error! Bookmark not defined.** Information for Bidders
2. Instructions to Bidders
3. Addendum(a) – Number **Error! Bookmark not defined.**
4. Form of Bid for Construction Contract
5. Targeted Small Business Form
6. Notice of Award and Notice to Proceed
7. Contract Performance and Payment Bond **Error! Bookmark not defined.**
8. General Conditions
9. Institution Requirements
10. Project Requirements
11. General Requirements (Division 1)
12. Technical Specifications (All other Divisions)
13. Drawings

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first above written.

«F29»  
\_\_\_\_\_  
CONSTRUCTOR

«F31», «F32»  
\_\_\_\_\_

Signed By \_\_\_\_\_ Date: \_\_\_\_\_  
(Principal)

Typed Name \_\_\_\_\_

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

\_\_\_\_\_  
(Email)

\_\_\_\_\_  
(Telephone Number)

Approved for the Board of Regents,  
State of Iowa

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

**Error! Bookmark not defined.**Executive Director  
**Error! Bookmark not defined.**Associate Vice President, Facilities Planning and

Management

Iowa State University

**END OF SECTION**

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## CONTRACT PERFORMANCE AND PAYMENT BOND FORM

KNOW ALL MEN BY THESE PRESENTS, That we, the undersigned, «F29»  
of «F31», «F32»

(hereinafter called the "Principal"), a corporation, partnership, individual duly authorized by Law to do  
business as a construction contractor in the state of Iowa,

and

of

(hereinafter called the "Surety"), a corporation duly authorized to do a surety business under the laws of  
the state of Iowa, are held and firmly bound unto the Board of Regents, State of Iowa (hereinafter called  
the "Obligee"), in the penal sum of **Error! Bookmark not defined.** \_\_\_\_\_ and  
No/100 Dollars (**Error! Bookmark not defined.** \_\_\_\_\_), lawful money of the United States, for  
the payment of which well and truly to be made unto the said Obligee, we bind ourselves, our heirs,  
executors, administrators, successors, and assigns jointly and severally, firmly by these presents, as  
follows:

The conditions of this obligation are such that, whereas on the «F56» day of «F56», the said Principal  
entered into a written Agreement with Obligee for «F2», located near Ames, Iowa as set forth in detail in  
the Advertisement for Bids, Instructions to Bidders, Accepted Bid, General Conditions, Institution  
Requirements, Project Requirements, Technical Specifications, Drawings, and other related Contract  
Documents referred to in said Agreement, all of which are hereby made a part hereof as if written herein at  
length.

NOW, THEREFORE, If the said Principal shall well and truly perform and complete said project in strict  
accordance with said Agreement including completion of construction within the time limits specified,  
together with full compliance with other requirements set forth by Advertisement for Bids, Instructions to  
Bidders, Accepted Bid, General Conditions, Institution Requirements, Project Requirements, Technical  
Specifications, Drawings, Guarantees, and other related Contract Documents shall comply with all the  
requirements of the laws of the state of Iowa, shall pay as they become due all just claims for work or labor  
performed and materials furnished in connection with said Agreement, and shall defend, indemnify, and  
save harmless Obligee against any and all liens, encumbrances, damages, claims, demands, expenses,  
costs, and charges of every kind including patent infringement claims except as otherwise provided in said  
specifications and other Contract Documents, arising out of or in relation to the performance of said work  
and the provisions of said Agreement, then these presents shall be void; otherwise they shall remain in full  
force and effect in any manner necessary to guarantee completion of the Contract in full compliance with  
the Contract Documents and within the construction period stated therein.

The Principal and the Surety on this bond hereby guarantee the full performance of said Agreement by the  
Principal and hereby covenant and agree to save the Obligee harmless from any and all defaults or failures  
of the Principal to so perform, and to pay, to the extent of the amount of this bond, any and all damages  
occasioned to the Obligee by the failure of the Principal to fully perform as required under his Contract.

This obligation is made for the use of said Obligee and also for the use and benefit of all persons who may  
perform any work or labor or furnish any material in the execution of said Agreement and may be sued on  
thereby in the name of said Obligee. The Principal and Surety on this bond hereby agree to pay to all  
persons, firms, or corporations having contracts directly with the Principal or with subcontractors all just  
claims due them for labor performed or material furnished in the performance of the contract on account of  
which this bond is given, when the same are not satisfied out of the portion of the contract price which the  
Obligee is required to retain until completion of the public improvement, but the Principal and Surety shall  
not be liable to said persons, firms, or corporations unless the claims of said claimants against said portion  
of the contract price shall have been established as provided by law.

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Every Surety on this bond shall be deemed and held, any contract to the contrary notwithstanding, to consent without notice:

- a. To any extension of time to the CONSTRUCTOR in which to perform the contract.
- b. To any change in the plans, specifications, or contract, when such change does not involve an increase of more than twenty percent of the total contract price, and shall then be released only as to such excess increase.
- c. That no provision of this bond or of any other contract shall be valid which limits to less than one year from the time of acceptance of the work the right to sue on this bond for defects in workmanship or material or construction in non-compliance with the Contract Documents not discovered or known to the Obligee at the time such work was accepted.

IN TESTIMONY WHEREOF, The parties hereunto have caused the execution hereof as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Principal

Signed By \_\_\_\_\_ Date: \_\_\_\_\_

Typed Name \_\_\_\_\_

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

\_\_\_\_\_  
Surety Seal

Signed By \_\_\_\_\_

Typed Name \_\_\_\_\_

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

\_\_\_\_\_  
(Email)

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

\_\_\_\_\_  
Telephone Number \_\_\_\_\_

Approved for the Board of Regents,  
State of Iowa

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

**Error! Bookmark not defined.** Executive Director  
**Error! Bookmark not defined.** Associate Vice President, Facilities Planning and

Management

Iowa State University

**END OF SECTION**

**BOARD OF REGENTS**  
**STATE OF IOWA**

**00 72 13 GENERAL CONDITIONS**

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**ARTICLE 1 AGREEMENT**

- 1.1 The Form of Agreement is included in Section 00 52 13 Form of Agreement Between OWNER and CONSTRUCTOR.

**ARTICLE 2 GENERAL PROVISIONS**

- 2.1 PARTIES' RELATIONSHIP AND ETHICS The Parties each agree to proceed with the Project on the basis of mutual trust, good faith, and fair dealing.
- 2.1.1 The CONSTRUCTOR shall furnish construction administration and management services and use the CONSTRUCTOR's diligent efforts to perform the Work in an expeditious manner consistent with the Contract Documents. The Parties shall each endeavor to promote harmony and cooperation among all Project participants.
- 2.1.2 The CONSTRUCTOR represents that it is an independent contractor and that in its performance of the Work it shall act as an independent contractor.
- 2.1.3 Neither the CONSTRUCTOR nor any of its agents or employees shall act on behalf of or in the name of the OWNER except as provided in the Agreement Between OWNER and CONSTRUCTOR or unless authorized in writing by the OWNER's Representative.
- 2.1.4. The CONSTRUCTOR represents that it possesses the skill, training, experience, personnel and resources to complete the Work: (a) in a workmanlike fashion; (b) in an orderly, diligent and timely fashion; and (c) in accordance with the Contract Documents and any standards or procedures incorporated therein by reference.

All Work shall be executed in accordance with the manufacturer's most recent recommendations unless otherwise specified or permitted by the DESIGN PROFESSIONAL. A sufficient force of competent workmen, foremen, and superintendents shall be employed at all times to permit the work to be diligently and continuously pursued in an orderly fashion until completion.

The Work required by the Contract Documents including without limitation, all construction details, construction means, use of material, selection of equipment and requirements of product manufacturers shall be performed in a manner that is consistent with (a) good and sound practices within construction industry; (b) generally prevailing and accepted industry standards applicable to the Work; (c) the requirements of any warranties applicable to the Work; and (d) all laws, ordinances, regulations, rules and orders to the extent that they bear upon the CONSTRUCTOR's performance of the Work.

2.2 ETHICS The Parties shall perform their obligations with integrity, ensuring at a minimum that each: (a) avoids conflicts of interest and promptly discloses any to the other Party; and (b) warrants that it has not and shall not pay or receive any contingent fees or gratuities to or from the other Party, including its agents, officers and employees, Subcontractors, or others for whom they may be liable, to secure preferential treatment.

2.3 DESIGN PROFESSIONAL The OWNER, through its DESIGN PROFESSIONAL, shall provide all architectural and engineering design services necessary for the completion of the Work, except for items indicated in the SPECIFICATIONS that require additional design services for implementation within the context of this Project, and all design services required in order to carry out CONSTRUCTOR's responsibilities for construction means, methods, techniques, sequences and procedures. The CONSTRUCTOR shall not be required to provide professional services which constitute the practice of architecture or engineering except as otherwise provided in section 3.15.

2.3.1 OWNERSHIP OF DOCUMENTS. All DRAWINGS, SPECIFICATIONS, and SUBMITTALS required pursuant to section 3.14, and any other document or submission required under this Agreement or prepared at any time in connection with the Project, whether in written or electronic form, are and shall remain the OWNER's sole property. The OWNER's interest in and right to any documents shall not be conditioned upon payment of all or any portion of the Contract price. These documents shall not be reproduced or used by the CONTRACTOR for any purpose except as (a) required for the performance of the services under this Agreement, or (b) as specifically authorized by the OWNER.

## 2.4 DEFINITIONS

2.4.1 "Agreement" means the Agreement Between OWNER and CONSTRUCTOR, as modified, upon its execution. The Form of Agreement Between OWNER and CONSTRUCTOR is included in Section 00 52 13.

2.4.2 "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.

2.4.3 "Change Order" is a written order signed by the OWNER and the CONSTRUCTOR after execution of this Agreement, indicating changes in the scope of the Work, the Contract Price, or Contract Time, including substitutions proposed by the CONSTRUCTOR and accepted by the OWNER.

2.4.4 "Contract Documents" consist of the Agreement, General Conditions, Institution Requirements, Project Requirements, DRAWINGS, SPECIFICATIONS, addenda issued and acknowledged prior to execution of this Agreement, information furnished by the OWNER pursuant to section 4.2, and modifications issued in accordance with this Agreement.

- 2.4.4.1 "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. DRAWINGS are intended to show general arrangements, design, and dimensions of work and are partly diagrammatic.
- 2.4.4.2 "SPECIFICATIONS" are that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.
- 2.4.5 "Contract Price" is the amount indicated in the Agreement
- 2.4.6 "Contract Time" is the period between the Date of Commencement and Final Completion.
- 2.4.7 "CONSTRUCTOR" is the person or entity identified in the Agreement and includes the CONSTRUCTOR's Representative. The terms "CONTRACTOR" or "CONSTRUCTOR" where used in the Contract Documents should be considered to be synonymous.
- 2.4.8 "Cost of the Work" means the costs and discounts specified in article 8.3.1.3.
- 2.4.9 "Date of Commencement" is as set forth in section 6.1.
- 2.4.10 "Day" means a calendar day.
- 2.4.11 "Defective Work" is any portion of the Work that does not conform to the requirements of the Contract Documents.
- 2.4.12 "DESIGN PROFESSIONAL" means the licensed architect or engineer and its consultants, retained by the OWNER to perform design services for the Project.
- 2.4.13 "Final Completion" occurs on the date when the CONSTRUCTOR's obligations under the Agreement are complete and accepted by the OWNER. This date shall be confirmed by a Certificate of Final Completion signed by the OWNER.
- 2.4.14 "Laws" mean federal, state, and local laws, ordinances, codes, rules, and regulations applicable to the Work with which the CONSTRUCTOR must comply that are enacted as of the Agreement date.
- 2.4.15 "Interim Directed Change" is a change to the Work directed by the OWNER pursuant to section 8.2.
- 2.4.16 "Material Supplier" is a person or entity retained by the CONSTRUCTOR to provide material or equipment for the Work.
- 2.4.17 "Others" means other contractors/constructors, material suppliers, and persons at the Worksite who are not employed by the CONSTRUCTOR or Subcontractors.
- 2.4.18 "Overhead" means (a) payroll costs and other compensation of CONSTRUCTOR employees in the CONSTRUCTOR's principal and branch offices, including, but not limited to, estimators, project managers, assistant project managers, and project engineers; (b) general and administrative expenses of the CONSTRUCTOR's principal and branch offices including charges against the CONSTRUCTOR for delinquent payments, and (c) the CONSTRUCTOR's capital expenses, including interest on capital used for the Work.
- 2.4.19 "OWNER" is the person or entity identified in the Agreement, and includes the OWNER's Representative.

2.4.20 "Parties" are collectively the OWNER and the CONSTRUCTOR.

2.4.21 "Profit" is a financial gain or total revenue less total expenses.

2.4.22 "Project," as identified in the Agreement, is the building, facility, or other improvements for which the CONSTRUCTOR is to perform Work under this Agreement. It may also include construction by the OWNER or Others.

2.4.23 "Schedule of the Work" is the document prepared by the CONSTRUCTOR that specifies the dates on which the CONSTRUCTOR plans to begin and complete various parts of the Work, including dates on which information and approvals are required from the OWNER.

2.4.24 "Subcontractor" is a person or entity retained by the CONSTRUCTOR as an independent contractor to provide the labor, materials, equipment or services necessary to complete a specific portion of the Work. The term Subcontractor does not include the DESIGN PROFESSIONAL or Others.

2.4.25 "Substantial Completion" of the Work, or of a designated portion, occurs on the date when the Work is sufficiently complete in accordance with the Contract Documents so that the OWNER may occupy or utilize the Project, or a designated portion, for the use for which it is intended. The issuance of a certificate of occupancy is not a prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond the CONSTRUCTOR's control. This date shall be confirmed by a Certificate of Substantial Completion signed by the OWNER.

2.4.26 "Subsubcontractor" is a person or entity who has an agreement with a Subcontractor or another Subsubcontractor to perform a portion of the Subcontractor's Work.

2.4.27 "Terrorism" means a violent act, or an act that is dangerous to human life, property or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States government as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.

2.4.28 "Work" means the construction and services necessary or incidental to fulfill the CONSTRUCTOR's obligations for the Project in conformance with the Agreement and the other Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by the OWNER or Others.

2.4.29 "Worksite" means the geographical area of the Project location where the Work is to be performed.

## **ARTICLE 3 CONSTRUCTOR'S RESPONSIBILITIES**

### **3.1 GENERAL RESPONSIBILITIES**

3.1.1 The CONSTRUCTOR shall provide all labor, materials, equipment, and services necessary to complete the Work, all of which shall be provided in full accord with and reasonably inferable from the Contract Documents. Any additional facilities or areas required for construction operations or storage of materials that are outside of the areas designated in the Contract Documents shall be provided by the CONSTRUCTOR at no additional cost to the OWNER.

3.1.2 The CONSTRUCTOR shall be responsible for the supervision and coordination of the Work, including the construction means, methods, techniques, sequences and procedures utilized, unless the Contract Documents give other specific instructions. In such case, the CONSTRUCTOR shall not be liable to the OWNER for damages resulting from compliance with

such instructions unless the CONSTRUCTOR recognized and failed to timely report to the OWNER any error, inconsistency, omission or unsafe practice that it discovered in the specified construction means, methods, techniques, sequences or procedures.

3.1.3 The CONSTRUCTOR shall perform Work only within locations allowed by the Contract Documents, Laws, and applicable permits.

### 3.2 COOPERATION WITH WORK OF OWNER AND OTHERS

3.2.1 The OWNER may perform work at the Worksite directly or by Others. Any agreements with Others to perform construction or operations related to the Project shall include provisions pertaining to insurance, indemnification, waiver of subrogation, consequential damages, coordination, interference, cleanup, and safety that are substantively the same as the corresponding provisions of this Agreement.

3.2.2 If the OWNER elects to perform work at the Worksite directly or by Others, the CONSTRUCTOR and the OWNER shall coordinate the activities of all forces at the Worksite and agree upon fair and reasonable schedules and operational procedures for Worksite activities. The OWNER shall require each separate contractor to cooperate with the CONSTRUCTOR and assist with the coordination of activities and the review of construction schedules and operations. The Contract Price and Contract Time shall be equitably adjusted, as mutually agreed by the Parties, for changes made necessary by the coordination of construction activities, and the Schedule of the Work shall be revised accordingly. The CONSTRUCTOR, the OWNER, and Others shall adhere to the revised construction schedule.

3.2.3 With regard to the work of the OWNER and Others, the CONSTRUCTOR shall (a) proceed with the Work in a manner that does not hinder, delay or interfere with the work of the OWNER or Others or cause the work of the OWNER or Others to become defective, (b) afford the OWNER or Others reasonable access for introduction and storage of their materials and equipment and performance of their activities, and (c) coordinate the CONSTRUCTOR's Work with theirs.

3.2.4 Before proceeding with any portion of the Work affected by the construction or operations of the OWNER or Others, the CONSTRUCTOR shall give the OWNER prompt written notification of any defects or delays the CONSTRUCTOR discovers in or resulting from the work of the OWNER or Others which will prevent the proper execution of the Work. The CONSTRUCTOR's obligations in this subsection do not create a responsibility for the work of the OWNER or Others, but are for the purpose of facilitating the Work. If the CONSTRUCTOR does not notify the OWNER of defects or delays interfering with the performance of the Work, the CONSTRUCTOR acknowledges that the work of the OWNER or Others has not contributed to delays and is not defective and is acceptable for the proper execution of the Work. Following receipt of written notice from the CONSTRUCTOR of defects or delays, the OWNER shall promptly inform the CONSTRUCTOR what action, if any, the CONSTRUCTOR shall take with regard to the defects or delays.

### 3.3 RESPONSIBILITY FOR PERFORMANCE

3.3.1 Prior to commencing the Work the CONSTRUCTOR shall examine and compare the DRAWINGS and SPECIFICATIONS with information furnished by the OWNER that are Contract Documents, relevant field measurements made by the CONSTRUCTOR, and any visible conditions at the Worksite affecting the Work.

3.3.2 Should the CONSTRUCTOR discover any errors, omissions or inconsistencies in the Contract Documents, the CONSTRUCTOR shall promptly report them to the OWNER. It is recognized, however, that the CONSTRUCTOR is not acting in the capacity of a licensed design professional, and that the CONSTRUCTOR's examination is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions or inconsistencies or to ascertain compliance



with applicable laws, building codes or regulations. Following receipt of written notice from the CONSTRUCTOR of defects, the OWNER shall promptly inform the CONSTRUCTOR what action, if any, the CONSTRUCTOR shall take with regard to the defects.

3.3.3 The CONSTRUCTOR shall have no liability for errors, omissions or inconsistencies discovered under this section unless the CONSTRUCTOR knowingly fails to report a recognized problem to the OWNER.

3.3.4 The CONSTRUCTOR may be entitled to additional costs or time because of clarifications or instructions arising out of the CONSTRUCTOR's reports described in this section.

3.3.5 Nothing in this section shall relieve the CONSTRUCTOR of responsibility for its own errors, inconsistencies, and omissions.

### 3.4 CONSTRUCTION PERSONNEL AND SUPERVISION

3.4.1 The CONSTRUCTOR shall provide competent supervision at all times when the Work is being performed. Before commencing the Work, the CONSTRUCTOR shall notify the OWNER in writing of the name and qualifications of its proposed superintendent(s) and project manager so the OWNER may review the individual's qualifications. If, for reasonable cause, the OWNER refuses to approve the individual, or withdraws its approval after once giving it, the CONSTRUCTOR shall name a different superintendent or project manager for the OWNER's review. Any disapproved superintendent or project manager shall not perform in that capacity thereafter at the Worksite. The project manager and superintendent shall not be changed without prior consent of the OWNER unless they cease to be in the employ of the CONSTRUCTOR. The superintendent shall be in attendance at the Project site during performance of the Work and shall represent the CONSTRUCTOR.

3.4.2 The CONSTRUCTOR shall be responsible to the OWNER for acts or omissions of Parties or entities performing portions of the Work for or on behalf of the CONSTRUCTOR or any of its Subcontractors.

3.4.3 The CONSTRUCTOR shall permit only qualified persons to perform the Work. The CONSTRUCTOR shall enforce safety procedures, strict discipline and good order among persons performing the Work. If the OWNER determines that a particular person does not follow safety procedures, or is unfit or unskilled for the assigned Work, the CONSTRUCTOR shall immediately reassign the person upon receipt of the OWNER's written notice to do so.

3.4.3.1 The OWNER will not tolerate sexual harassment. Sexual harassment is a form of sex discrimination as defined in the Code of Iowa and is a violation of both state and federal law.

3.4.4 CONSTRUCTOR'S REPRESENTATIVE The CONSTRUCTOR's authorized representative shall be the CONSTRUCTOR'S project manager unless otherwise identified in writing to the OWNER. The CONSTRUCTOR's Representative shall possess full authority to receive instructions from the OWNER, to act on those instructions, to execute all documents related to this Agreement (including, but not limited to Change Orders), and to legally bind the CONSTRUCTOR to any document so executed. If the CONSTRUCTOR changes its representative or their authority, the CONSTRUCTOR shall immediately notify the OWNER in writing.

3.5 WORKMANSHIP The Work shall be executed in accordance with the Contract Documents in a workmanlike manner. All materials used in the Work shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except such materials as may be expressly provided in the Contract Documents to be otherwise.

3.6 MATERIALS FURNISHED BY THE OWNER OR OTHERS If the Work includes installation of materials or equipment furnished by the OWNER or Others, it shall be the responsibility of the CONSTRUCTOR to examine the items so provided and thereupon handle, store and install the items, unless otherwise provided in the Contract Documents, with such skill and care as to provide a satisfactory and proper installation. Loss or damage due to acts or omissions of the CONSTRUCTOR shall be the responsibility of the CONSTRUCTOR and shall be deducted by the OWNER from any payments due or to become due the CONSTRUCTOR. If payments then or thereafter due to the CONSTRUCTOR are not sufficient, the OWNER shall charge the CONSTRUCTOR for the cost of the loss or damage and the CONSTRUCTOR shall promptly pay amounts due to the OWNER. Any defects discovered in such materials or equipment shall be reported at once to the OWNER. Following receipt of written notice from the CONSTRUCTOR of defects, the OWNER shall promptly inform the CONSTRUCTOR what action, if any, the CONSTRUCTOR shall take with regard to the defects.

### 3.7 TESTS AND INSPECTIONS

3.7.1 The CONSTRUCTOR shall schedule all required tests, approvals and inspections of the Work or portions thereof at appropriate times so as not to delay the progress of the Work or other work related to the Project. The CONSTRUCTOR shall give proper notice to all required Parties of such tests, approvals and inspections. If feasible, the OWNER and Others may timely observe the tests at the normal place of testing. Except as provided in subsection 3.7.3, the OWNER shall bear all expenses associated with tests, inspections and approvals required by the Contract Documents, which, unless otherwise agreed to, shall be conducted by an independent testing laboratory or entity retained by the OWNER. Unless otherwise required by the Contract Documents, required documents and/or certificates of testing, approval or inspection shall be secured by the CONSTRUCTOR and immediately delivered to the OWNER. The Constructor's duty to provide the OWNER with required documents and/or certificates of testing, approval or inspection shall not be conditioned upon the payment of all or any portion of the Contract Price. Failure of the CONSTRUCTOR to provide any documents and/or certificates required under this subsection 3.7.1 shall be considered a material breach of this Agreement.

3.7.2 If the OWNER or appropriate authorities determine that tests, inspections or approvals in addition to those required by the Contract Documents will be necessary, the CONSTRUCTOR shall arrange for the procedures and give timely notice to the OWNER and Others who may observe the procedures. Costs of the additional tests, inspections or approvals are at the OWNER's expense except as provided in the subsection below.

3.7.3 If the procedures described in two subsections above indicate that portions of the Work fail to comply with the Contract Documents, the CONSTRUCTOR shall be responsible for costs of correction and retesting.

3.7.4 If the CONSTRUCTOR fails to schedule or conduct any test, approval, or inspection required under section 3.7, or fails to provide the OWNER with any document and/or certificate required under section 3.7, the OWNER may proceed to schedule any required test, approval, or inspection, and the CONSTRUCTOR shall be responsible for all costs associated with such test, approval, or inspection. The OWNER shall deduct these costs from payments then or thereafter due to the CONSTRUCTOR. If payments then or thereafter due to the CONSTRUCTOR are not sufficient, the OWNER shall charge the CONSTRUCTOR for these costs and the CONSTRUCTOR shall promptly pay amounts due to the OWNER.

### 3.8 WARRANTY

3.8.1 The CONSTRUCTOR warrants that all materials and equipment shall be new, unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. At the OWNER's request, the CONSTRUCTOR shall furnish satisfactory evidence of the quality and type of materials and equipment furnished. The CONSTRUCTOR further warrants that the Work shall be free from material defects not intrinsic

in the design or materials required in the Contract Documents. The CONSTRUCTOR's warranty does not include remedies for defects or damages caused by normal wear and tear during normal usage, use for a purpose for which the Project was not intended, improper or insufficient maintenance, modifications performed by the OWNER or Others, or abuse. The CONSTRUCTOR's warranty shall commence on the Date of Substantial Completion of the Work, or of a designated portion.

3.8.2 To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by the OWNER, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face of any such warranty.

3.8.3 The CONSTRUCTOR shall obtain from its Subcontractors and Material Suppliers any special or extended warranties required by the Contract Documents and deliver the same to OWNER. The CONSTRUCTOR's liability for such warranties shall be limited to the one-year correction period as provided in the section below unless otherwise stated in the Project Requirements. After that period, the CONSTRUCTOR shall provide reasonable assistance to the OWNER in enforcing the obligations of Subcontractors or Material Suppliers for such extended warranties.

3.8.4 Unless otherwise specifically stated in the Contract Documents, all required warranties shall be, at minimum, a no dollar limit warranty.

### 3.9 CORRECTION OF WORK WITHIN ONE YEAR

3.9.1 If, prior to Substantial Completion and within one year after the date of Substantial Completion of the Work, any Defective Work is found, the OWNER shall notify the CONSTRUCTOR in writing within a reasonable amount of time. Unless the OWNER provides written acceptance of the condition, the CONSTRUCTOR shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the one-year correction period the OWNER discovers and does not notify the CONSTRUCTOR within a reasonable amount of time or give the CONSTRUCTOR an opportunity to test or correct Defective Work as reasonably requested by the CONSTRUCTOR, the OWNER waives the CONSTRUCTOR's obligation to correct that Defective Work as well as the OWNER's right to claim a breach of the warranty with respect to that Defective Work.

3.9.2 With respect to any portion of Work not accepted at Substantial Completion, the one-year correction period shall commence upon the date the Work is accepted by the OWNER. Correction periods shall not be extended by corrective work performed by the CONSTRUCTOR.

3.9.3 If the CONSTRUCTOR fails to correct Defective Work within a reasonable time after receipt of written notice from the OWNER prior to final payment, the OWNER may correct it in accordance with the OWNER's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting the Defective Work from payments then or thereafter due the CONSTRUCTOR. If payments then or thereafter due the CONSTRUCTOR are not sufficient to cover such amounts, the CONSTRUCTOR shall pay the difference to the OWNER promptly upon demand.

3.9.4 If after the one-year correction period, but before the applicable limitation period, the OWNER discovers any Defective Work, the OWNER shall, unless the Defective Work requires emergency correction, notify the CONSTRUCTOR within a reasonable period of time. If the CONSTRUCTOR elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from the OWNER. The CONSTRUCTOR shall complete the correction of Work within a mutually agreed timeframe. If the CONSTRUCTOR does not elect to correct the Work, the OWNER may have the Work corrected by itself or Others and deduct the cost of correcting the Defective Work from payments then or thereafter due to the CONSTRUCTOR. If

payments then or thereafter due to the CONSTRUCTOR are not sufficient, the OWNER shall charge the CONSTRUCTOR for the cost of the correction and the CONSTRUCTOR shall promptly pay amounts due to the OWNER. The OWNER shall provide the CONSTRUCTOR with an accounting of correction costs it incurs.

3.9.5 If the CONSTRUCTOR's correction or removal of Defective Work causes damage to or destroys other completed or partially completed Work or existing buildings, the CONSTRUCTOR shall be responsible for the cost of correcting the destroyed or damaged property.

3.9.6 The one-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of the CONSTRUCTOR's other obligations under the Contract Documents, or any of the OWNER's legal rights, including, but not limited to, claims for breach of contract.

3.9.7 The OWNER's may, at its option, elect to accept Defective Work rather than require its removal and correction. If the OWNER's elects to accept Defective Work prior to final payment, the Contract Price shall be equitably adjusted for any diminution in the value of the Project caused by such Defective Work as determined by the OWNER, and any diminution in value shall be deducted from any payments then or thereafter due to the CONSTRUCTOR. If the OWNER's elect to accept Defective Work after final payment, or payments then or thereafter due to the CONSTRUCTOR are not sufficient to cover such amounts, the OWNER shall charge the CONSTRUCTOR for the amount of diminution in value and the CONSTRUCTOR shall promptly pay amounts due to the OWNER.

### 3.10 CORRECTION OF COVERED WORK

3.10.1 On request of the OWNER, Work that has been covered without a requirement that it be inspected prior to being covered may be uncovered for the OWNER's inspection. The OWNER shall pay for the costs of uncovering and replacement if the Work proves to be in conformance with the Contract Documents, or if the defective condition was caused by the OWNER or Others. If the uncovered Work proves to be defective, the CONSTRUCTOR shall pay the costs of uncovering and replacement.

3.10.2 If, contrary to specific requirements in the Contract Documents or contrary to a specific request from the OWNER, a portion of the Work is covered, the OWNER, by written request, may require the CONSTRUCTOR to uncover the Work for the OWNER's observation. In this circumstance the costs of uncovering and replacement of the Work shall be at the CONSTRUCTOR's expense and with no adjustment to the Contract Time.

### 3.11 SAFETY OF PERSONS AND PROPERTY

3.11.1 SAFETY PRECAUTIONS AND PROGRAMS The CONSTRUCTOR shall have overall responsibility for safety precautions and programs in the performance of the Work. However, such obligation does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work or for compliance with Laws.

3.11.2 The CONSTRUCTOR shall seek to avoid injury, loss or damage to persons or property by taking reasonable steps to protect: (a) its employees and other persons at the Worksite; (b) materials and equipment stored at onsite or offsite locations for use in the Work; and (c) property located at the Worksite and adjacent to Work areas, whether or not the property is part of the Worksite.

3.11.3 The CONSTRUCTOR shall designate a responsible member of the CONSTRUCTOR's organization at the site as the CONSTRUCTOR's Safety Representative whose duty shall be the prevention of accidents. This person shall be the CONSTRUCTOR's superintendent unless otherwise designated by the CONSTRUCTOR in writing to the OWNER. The CONSTRUCTOR shall report promptly in writing to the OWNER all recordable accidents and injuries occurring at

the Worksite. When the CONSTRUCTOR is required to file an accident report with a public authority, the CONSTRUCTOR shall promptly furnish a copy of the report to the OWNER.

3.11.4 The CONSTRUCTOR shall provide the OWNER with copies of all notices required of the CONSTRUCTOR by law or regulation. The CONSTRUCTOR's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction.

3.11.5 Damage or loss not insured under property insurance which may arise from the Work, to the extent caused by the acts or omissions of the CONSTRUCTOR, or anyone for whose acts the CONSTRUCTOR may be liable, shall be promptly remedied by the CONSTRUCTOR.

3.11.6 If the OWNER deems any part of the Work or Worksite unsafe, the OWNER, without assuming responsibility for the CONSTRUCTOR's safety program, may require the CONSTRUCTOR to stop performance of the Work or take corrective measures satisfactory to the OWNER, or both. If the CONSTRUCTOR does not adopt corrective measures, the OWNER may perform them and deduct their cost from the Contract Price. The CONSTRUCTOR agrees to make no claim for damages, for an increase in the Contract Price or for a change in the Contract Time based on the CONSTRUCTOR's compliance with the OWNER's reasonable request.

3.12 EMERGENCIES In an emergency affecting the safety of persons or property, the CONSTRUCTOR shall act in a reasonable manner to prevent threatened damage, injury, or loss. Any change in the Contract Price or Contract Time resulting from the actions of the CONSTRUCTOR in an emergency situation shall be determined as provided for in ARTICLE 8.

### 3.13 HAZARDOUS MATERIALS

3.13.1 A Hazardous Material is any substance or material identified as hazardous under Laws, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal, or cleanup, except that in the category of Asbestos Containing Materials, materials containing less than once percent (< 1%) asbestos and Asbestos Containing Materials that are encapsulated shall not be considered Hazardous Materials subject to the requirements of Section 3.13. The CONSTRUCTOR shall not be obligated to commence or continue work until any Hazardous Material discovered at the Worksite has been removed, rendered, or determined to be harmless by the OWNER.

3.13.2 If after commencing the Work, Hazardous Material is discovered at the Worksite, the CONSTRUCTOR shall be entitled to immediately stop Work in the affected area. The CONSTRUCTOR shall promptly report the condition to the OWNER, the DESIGN PROFESSIONAL, and, if required, the governmental agency with jurisdiction.

3.13.3 The CONSTRUCTOR shall not be required to perform any Work relating to or in the area of Hazardous Material without written mutual agreement of the OWNER and the CONSTRUCTOR.

3.13.4 The OWNER shall be responsible for determining the nature of the material encountered and whether the material requires corrective measures or remedial action. Such measures shall be the sole responsibility of the OWNER, and shall be performed in a manner minimizing any adverse effect upon the Work. The CONSTRUCTOR shall resume Work in the area affected by any Hazardous Material only upon written agreement between the Parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction.

3.13.5 If the CONSTRUCTOR incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, the CONSTRUCTOR shall be entitled to an equitable adjustment in the Contract Price or the Contract Time.

3.13.6 Subsections 3.13.1 through 3.13.5 shall not apply to any Hazardous Material that is included in the scope of Work to be performed by the CONSTRUCTOR.

### 3.13.7 MATERIALS BROUGHT TO THE WORKSITE

3.13.7.1 Material Safety Data (MSD) sheets as required by law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by the CONSTRUCTOR, Subcontractors, the OWNER or Others, shall be maintained at the Worksite by the CONSTRUCTOR and made available to the OWNER, Subcontractors and Others.

3.13.7.2 The CONSTRUCTOR shall be responsible for the proper delivery, handling, application, storage, removal and disposal of all materials and substances brought to the Worksite by the CONSTRUCTOR in accordance with the Contract Documents and used or consumed in the performance of the Work.

3.13.7.3 The CONSTRUCTOR shall indemnify and hold harmless the OWNER, its agents, officers, directors and employees, from and against any and all claims, damages, losses, costs and expenses, including attorney fees, incurred in connection with any dispute resolution procedure, arising out of or relating to the delivery, handling, application, storage, removal and disposal of all materials and substances brought to the Worksite by the CONSTRUCTOR in accordance with the Contract Documents.

3.13.8 Section 3.13 shall survive the completion of the Work or any termination of this Agreement.

### 3.14 SUBMITTALS

3.14.1 The CONSTRUCTOR shall submit to the OWNER and the DESIGN PROFESSIONAL all shop drawings, samples, product data and similar submittals required by the Contract Documents for review. Submittals shall be submitted in electronic form if required in accordance with subsection 4.4.1. The CONSTRUCTOR shall be responsible for the accuracy and conformity of its submittals to the Contract Documents. At no additional cost, the CONSTRUCTOR shall prepare and deliver its submittals in a manner consistent with the Schedule of the Work and in such time and sequence so as not to delay the performance of the Work or the work of the OWNER and Others. CONSTRUCTOR submittals shall identify in writing for each submittal all changes, deviations, or substitutions from the requirements of the Contract Documents. The review of any CONSTRUCTOR submittal shall not be deemed to authorize changes, deviations, or substitutions from the requirements of the Contract Documents unless express written approval is obtained from the OWNER specifically authorizing such deviation, substitution or change. To the extent a change, deviation or substitution causes an impact to the Contract Price or Contract Time, such approval shall be promptly memorialized in a Change Order. Neither the DESIGN PROFESSIONAL nor OWNER shall make any change, deviation or substitution through the submittal process without specifically identifying and authorizing such deviation to the CONSTRUCTOR. If the Contract Documents do not contain submittal requirements pertaining to the Work, the CONSTRUCTOR agrees upon request to submit in a timely fashion to the DESIGN PROFESSIONAL and the OWNER for review any shop drawings, samples, product data, manufacturers' literature or similar submittals as may reasonably be required by the OWNER.

3.14.1.1 The CONSTRUCTOR shall provide the DESIGN PROFESSIONAL with a submittal schedule within the first thirty (30) days of the Work and shall accept reasonable modifications to the schedule made by the OWNER and DESIGN PROFESSIONAL. The CONSTRUCTOR shall not be entitled to an increase in Contract Time or Contract Price resulting from delays in review of submittals that are not submitted in a timely manner and in accordance with the submittal schedule.

3.14.2 The OWNER or designee shall be responsible for review of submittals with reasonable promptness to avoid causing delay. Any time required to prepare, submit and review a previously rejected submittal will not justify an increase to the Contract Price and/or the Contract Time. The OWNER may require the CONSTRUCTOR to reimburse the OWNER for all costs incurred by the OWNER that were made necessary by excessive re-review of previously submitted submittals as determined by the OWNER. The OWNER shall deduct these cost from payments then or thereafter due to the Constructor. If payments then or thereafter due to the CONSTRUCTOR are not sufficient, the OWNER shall charge the CONSTRUCTOR for these costs and the CONSTRUCTOR shall promptly pay amounts due to the OWNER.

3.14.3 The CONSTRUCTOR shall perform all Work strictly in accordance with approved submittals. Approval of shop drawings is not an authorization to perform changed work, unless the procedures of ARTICLE 8 are followed. Approval does not relieve the CONSTRUCTOR from responsibility for Defective Work resulting from errors or omissions on the approved shop drawings. Any work performed prior to approval of the relevant submittal shall be at the CONSTRUCTORs risk.

3.14.4 Record copies of the following, incorporating field changes and selections made during construction, shall be maintained at the Worksite and available to the OWNER upon request: DRAWINGS, SPECIFICATIONS, addenda, Change Order and other modifications, and required submittals including product data, samples and shop drawings. Upon the OWNER's request, the CONSTRUCTOR shall provide the OWNER with access to any electronic systems or databases in which the items specified in this subsection 3.14.4 may be stored.

3.14.5 No substitutions shall be made in the Work unless permitted in the Contract Documents and then only after the CONSTRUCTOR obtains approvals required under the Contract Documents for substitutions. All such substitutions shall be promptly memorialized in a Change Order following approval by the OWNER and DESIGN PROFESSIONAL and, if applicable, provide for an adjustment in the Contract Price or Contract Time.

3.14.6 Prior to issuance of final payment, the CONSTRUCTOR shall prepare and submit to the OWNER final marked-up record drawings, which have been reviewed and approved by the DESIGN PROFESSIONAL or Others at the OWNER'S discretion, documenting how the various elements of the Work were actually constructed or installed by the CONSTRUTOR.

3.15 DESIGN DELEGATION If the Contract Documents specifically require the CONSTRUCTOR to procure design services, the OWNER shall specify all required performance and design criteria. The CONSTRUCTOR shall not be responsible for the adequacy of such performance and design criteria. As permitted by the laws, rules, and regulations in the jurisdiction where the Project is located, the CONSTRUCTOR shall procure such services and any certifications necessary to satisfactorily complete the Work from a licensed design professional. The signature and seal of the CONSTRUCTOR's design professional shall appear on all drawings, calculations, specifications, certifications, shop drawings, and other submittals related to the Work designed or certified by CONSTRUCTOR's design professional.

### 3.16 WORKSITE CONDITIONS

3.16.1 WORKSITE VISIT The CONSTRUCTOR acknowledges that it has visited, or has had the opportunity to visit, the Worksite to visually inspect the general and local conditions which could affect the Work.

3.16.2 CONCEALED OR UNKNOWN SITE CONDITIONS If the conditions encountered at the Worksite are (a) subsurface or other physical conditions materially different from those indicated in the Contract Documents, or (b) unusual and unknown physical conditions materially different from

conditions ordinarily encountered and generally recognized as inherent in Work provided for in the Contract Documents, the CONSTRUCTOR shall stop affected Work after the condition is first observed and give prompt written notice of the condition to the OWNER and the DESIGN PROFESSIONAL. CONSTRUCTOR shall not disturb the condition. The OWNER shall promptly investigate and determine whether or not the condition encountered is concealed or unknown and promptly inform the CONSTRUCTOR of its decision in writing. The CONSTRUCTOR shall not be required to proceed with the portion of the Work affected by the unknown or concealed condition until instructed to do so by the OWNER. Any change in the Contract Price or the Contract Time as a result of the unknown condition shall be determined as provided in ARTICLE 8.

### 3.17 PERMITS AND TAXES

3.17.1 CONSTRUCTOR shall give public authorities all notices required by law and, except for permits and fees that are the responsibility of the OWNER, shall obtain and pay for all necessary permits, licenses, and renewals pertaining to the Work. The CONSTRUCTOR shall promptly provide to the OWNER copies of all notices, permits, licenses, and renewals required under this Agreement.

3.17.2 The CONSTRUCTOR shall pay all applicable taxes enacted when bids are received or negotiations concluded for the Work provided by the CONSTRUCTOR.

3.17.2.1 Iowa Construction Sales Tax Exemption Certificates and authorization letters will be provided by the OWNER to the CONSTRUCTOR and Subcontractors for use on this project in accordance with the regulations of the Iowa Department of Revenue and Finance. This exemption certificate will authorize suppliers to sell construction materials that will be incorporated into and made part of the Work exempt from Iowa sales tax and any applicable local option sales tax and school infrastructure local option sales tax. Complete information on qualifying materials can be found on the Iowa Department of Revenue and Finance web site at [www.state.ia.us/tax](http://www.state.ia.us/tax). It is the responsibility of the CONSTRUCTOR and Subcontractors to maintain records identifying the materials purchased and verifying they were used on this project. Any materials purchased tax-free and not used on the project are subject to sales and local option taxes and these taxes must be paid directly to the Iowa Department of Revenue and Finance.

3.17.2.2 If Iowa sales and/or use taxes, including local option sales taxes where applicable, are paid by the CONSTRUCTOR and all Subcontractors for supplies, materials or equipment incorporated into and made part of the Work, upon completion of this Contract, but before final payment, the CONSTRUCTOR shall furnish the OWNER, a CONSTRUCTOR's Statement properly executed and sworn to, listing all Iowa sales and/or use taxes, and local option sales taxes where applicable, paid by the CONSTRUCTOR and all Subcontractors on all supplies and materials and on all equipment incorporated into and made part of the Work. The CONSTRUCTOR's Statement form is available on the Iowa Department of Revenue web site at <http://www.iowa.gov/tax/forms/35002.pdf>.

### 3.18 CUTTING, FITTING AND PATCHING

3.18.1 The CONSTRUCTOR shall perform cutting, fitting and patching necessary to complete the various parts of the Work and to prepare its Work for the work of the OWNER or Others.

3.18.2 Cutting, patching or altering the work of the OWNER or Others shall be done with the prior written approval of the OWNER. Such approval shall not be unreasonably withheld.

### 3.19 CLEANING UP



- 3.19.1 The CONSTRUCTOR shall regularly remove debris and waste materials at the Worksite and adjacent premises resulting from the Work. Prior to discontinuing Work in an area, the CONSTRUCTOR shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste and surplus materials. The CONSTRUCTOR shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, the CONSTRUCTOR shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials and debris.
- 3.19.2 If the CONSTRUCTOR fails to commence compliance with cleanup duties within two (2) Business Days after written notification from the OWNER of non-compliance, the OWNER may implement appropriate cleanup measures without further notice and shall deduct the reasonable costs from any payments then or thereafter due the CONSTRUCTOR. If payments then or thereafter due to the CONSTRUCTOR are not sufficient, the OWNER shall charge the CONSTRUCTOR for these costs and the CONSTRUCTOR shall promptly pay amounts due to the OWNER.
- 3.20 ACCESS TO WORK The CONSTRUCTOR shall facilitate the access of the OWNER, DESIGN PROFESSIONAL and Others to Work in progress. The CONSTRUCTOR shall furnish the OWNER and DESIGN PROFESSIONAL all necessary assistance to facilitate inspections throughout the process of manufacture or construction, or for the examination of any materials entering into the Work or for any other purpose required in the discharge of the OWNER's duties.
- 3.21 COMPLIANCE WITH LAWS The CONSTRUCTOR shall comply with all Laws at its own costs. The CONSTRUCTOR shall be liable to the OWNER for all loss, cost, or expense attributable to any acts or omissions by the CONSTRUCTOR, its employees, subcontractors, and agents for failure to comply with Laws, including fines, penalties, or corrective measures. However, liability under this subsection shall not apply if advance written notice to the OWNER was given, and advance written approval by appropriate authorities, including the OWNER, is received.
- 3.21.1 The Contract Price or Contract Time shall be equitably adjusted by Change Order for additional costs resulting from any changes in Laws, which were not reasonably anticipated and then enacted after the date of this Agreement.
- 3.22 CONFIDENTIALITY Unless compelled by law, a governmental agency or authority, an order of a court of competent jurisdiction, or a validly issued subpoena, the CONSTRUCTOR shall treat as confidential and not disclose to third-persons, except Subcontractors, Subsubcontractors, and Material Suppliers as is necessary for the performance of the Work any of the OWNER's confidential information, know-how, discoveries, production methods, and the like that may be disclosed to the CONSTRUCTOR or which the CONSTRUCTOR may acquire in connection with the Work. The OWNER shall specify those items to be treated as confidential and shall mark them as "Confidential." In the event of a legal compulsion or other order seeking disclosure of any Confidential Information, the CONSTRUCTOR shall promptly notify the OWNER to permit the OWNER's legal objection, if necessary. For the purposes of this section 3.22, the DRAWINGS, shop drawings, SPECIFICATIONS, record documents, pay requests, and product data are designated Confidential by the OWNER. Additional information may be separately designated as confidential by the OWNER at any time.

## **ARTICLE 4 OWNER'S RESPONSIBILITIES**

- 4.1 INFORMATION AND SERVICES OWNER's responsibilities under this article shall be fulfilled with reasonable detail and in a timely manner.
- 4.2 WORKSITE INFORMATION To the extent the OWNER has obtained, or is required elsewhere in the Contract Documents to obtain, the following Worksite information, the OWNER shall provide at the OWNER's expense and with reasonable promptness:
- 4.2.1 information describing the physical characteristics of the Worksite, including surveys, Worksite evaluations, legal descriptions, data or drawings depicting existing conditions, subsurface

conditions and environmental studies, reports and investigations. Legal descriptions shall include easements, title restrictions, boundaries, and zoning restrictions. Worksite descriptions shall include existing buildings and other construction and all other pertinent site conditions. Adjacent property descriptions shall include structures, streets, sidewalks, alleys, and other features relevant to the Work. Utility details shall include available services, lines at the Worksite and adjacent thereto, and connection points. The information shall include public and private information, subsurface information, grades, contours, and elevations, drainage data, exact locations and dimensions, and benchmarks that can be used by the CONSTRUCTOR in laying out the Work;

4.2.2 tests, inspections and other reports dealing with environmental matters, Hazardous Material and other existing conditions, including structural, mechanical, and chemical tests, required by the Contract Documents or by Law; and

4.2.3 any other information or services requested in writing by the CONSTRUCTOR which are required for the CONSTRUCTOR's performance of the Work and under the OWNER's control.

4.3 BUILDING PERMIT, FEES, AND APPROVALS Except for those permits and fees related to the Work which are the responsibility of the CONSTRUCTOR, the OWNER shall secure and pay for all other permits, approvals, easements, assessments and fees required for the development, construction, use or occupancy of permanent structures or for permanent changes in existing facilities, including the building permit.

4.4 CONTRACT DOCUMENTS Unless otherwise specified, the OWNER shall provide hard copies of the Contract Documents as are reasonably necessary for execution of the Work to the CONSTRUCTOR without cost.

4.4.1 DOCUMENTS IN ELECTRONIC FORM If the OWNER requires that the OWNER, DESIGN PROFESSIONAL and CONSTRUCTOR exchange documents and data in electronic or digital form, prior to any such exchange, the OWNER, DESIGN PROFESSIONAL and CONSTRUCTOR shall agree on a written protocol governing all exchanges which, at a minimum, shall specify: (a) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (b) management and coordination responsibilities; (c) necessary equipment, software and services; (d) acceptable formats, transmission methods and verification procedures; (e) methods for maintaining version control; (f) privacy and security requirements; and (g) storage and retrieval requirements. Except as otherwise agreed to by the Parties in writing, the Parties shall each bear their own costs as identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient.

4.5 OWNER'S REPRESENTATIVE The OWNER's Representative is identified in Section 00 73 13 Institution Requirements. The OWNER's Representative shall be fully acquainted with the Project and is authorized to act on behalf of the OWNER. The OWNER's Representative will provide general administration of the contract and shall fulfill the duties, rights and obligations of the OWNER under the Contract Documents. If the OWNER changes its representative or its Representative's authority, the OWNER shall immediately notify the CONSTRUCTOR in writing.

4.6 OWNER'S CUTTING AND PATCHING Cutting, patching or altering the Work by the OWNER or Others shall be done with the prior written approval of the CONSTRUCTOR, which approval shall not be unreasonably withheld.

4.7 OWNER'S RIGHT TO CLEAN UP In case of a dispute between the CONSTRUCTOR and Others with regard to respective responsibilities for cleaning up at the Worksite, the OWNER may implement appropriate cleanup measures after two (2) Business Days' notice and allocate the cost among those responsible during the following pay period. The OWNER shall deduct the portion of these costs allocated to the CONSTRUCTOR from payments then or thereafter due to the Constructor. If payments

then or thereafter due to the CONSTRUCTOR are not sufficient, the OWNER shall charge the CONSTRUCTOR for its portion of these costs and the CONSTRUCTOR shall promptly pay amounts due to the OWNER.

- 4.8 **COST OF CORRECTING DAMAGED OR DESTROYED WORK** With regard to damage or loss attributable to the acts or omissions of the OWNER or Others and not to the CONSTRUCTOR, the OWNER may either (a) promptly remedy the damage or loss or (b) accept the damage or loss. If the CONSTRUCTOR incurs additional costs or is delayed due to such loss or damage, the CONSTRUCTOR shall be entitled to an equitable adjustment in the Contract Price or Contract Time.

## **ARTICLE 5 SUBCONTRACTS**

- 5.1 **SUBCONTRACTORS** The Work not performed by the CONSTRUCTOR with its own forces shall be performed by Subcontractors.

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

5.2.1 The CONSTRUCTOR shall provide the OWNER and, if directed, the DESIGN PROFESSIONAL with a written list of the proposed Subcontractors and significant Material Suppliers two business days after receipt of the Notice of Award. The CONSTRUCTOR shall provide an Iowa CONSTRUCTORS registration number for all Subcontractors. If the OWNER has an objection to any proposed Subcontractor or Material Supplier, the OWNER shall notify the CONSTRUCTOR in writing. Failure to promptly object shall constitute acceptance.

5.2.2 If the OWNER has promptly objected, the CONSTRUCTOR shall not contract with the proposed Subcontractor or Material supplier, and the CONSTRUCTOR shall propose another acceptable Subcontractor or Material supplier to the OWNER. An appropriate Change Order shall reflect any increase or decrease in the Contract Price or Contract Time because of the substitution. The CONSTRUCTOR shall not change a Subcontractor, previously selected, if the OWNER objects to such change.

- 5.3 **BINDING OF SUBCONTRACTORS AND MATERIAL SUPPLIERS** The CONSTRUCTOR agrees to bind every Subcontractor and Material Supplier (and require every Subcontractor to so bind its subcontractors and material suppliers) to all the provisions of the Agreement and the Contract Documents as they apply to the Subcontractor's or Material Supplier's portions of the Work. In accordance with Chapter 573 of the Code of Iowa, CONSTRUCTOR shall make prompt payments to Subcontractors for satisfactory performance of the Work. The OWNER shall have no obligation to pay or to see to the payment of any moneys to any Subcontractor except as may otherwise be required by law.

### **5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS**

5.4.1 If the Agreement is terminated, each subcontract and supply agreement shall be assigned by the CONSTRUCTOR to the OWNER, subject to the prior rights of any surety, provided that: (a) the Agreement is terminated by the OWNER pursuant to sections 11.3 or 11.4; and (b) the OWNER accepts such assignment after termination by notifying the Subcontractor and CONSTRUCTOR in writing, and assumes all rights and obligations of the CONSTRUCTOR pursuant to each subcontract agreement. The OWNER does not assume responsibility for any of CONTRACTOR's obligations existing prior to the date of assumption unless expressly agreed to in writing.

5.4.2 If the OWNER accepts such an assignment, and the Work has been suspended for more than thirty (30) consecutive Days, following termination, if appropriate, the Subcontractor's compensation shall be equitably adjusted as a result of the suspension.

## **ARTICLE 6 TIME**

6.1 DATE OF COMMENCEMENT The Date of Commencement of the Work is the date established by the Notice of Award unless otherwise set forth in Section 00 74 13 Project Requirements

6.1.1 SUBSTANTIAL/FINAL COMPLETION Substantial Completion of the Work shall be achieved in accordance with the milestone schedule stated in Section 00 74 13 Project Requirements. Unless otherwise specified in the Certificate of Substantial Completion, the CONSTRUCTOR shall achieve Final Completion in accordance with Section 00 74 13 Project Requirements. The deadlines for Substantial and Final Completion are subject to adjustments as provided for in the Contract Documents.

6.1.2 Time is of the essence for the Agreement and the Contract Documents.

6.1.3 Unless instructed by the OWNER in writing, the CONSTRUCTOR shall not knowingly commence the Work before the effective date of insurance to be provided by the CONSTRUCTOR or the OWNER as required by the Contract Documents.

## 6.2 SCHEDULE OF THE WORK

6.2.1 Before submitting the first application for payment, the CONSTRUCTOR shall submit to the OWNER, and if directed, to the DESIGN PROFESSIONAL, a Schedule of the Work showing the dates on which the CONSTRUCTOR plans to commence and complete various parts of the Work, including dates on which information, approvals, self-performed work, selection of allowance items, and other known OWNER services, tasks and work are required. The CONSTRUCTOR shall comply with the approved Schedule of the Work unless directed by the OWNER to do otherwise or the CONSTRUCTOR is otherwise entitled to an adjustment in the Contract Time. The CONSTRUCTOR shall update the Schedule of the Work on a monthly basis or at appropriate intervals as required by the conditions of the Work and the Project.

6.2.2 The OWNER may determine the sequence in which the Work shall be performed, provided it does not unreasonably interfere with the Schedule of the Work. The OWNER may require the CONSTRUCTOR to make reasonable changes in the sequence at any time during the performance of the Work in order to facilitate the performance of work by the OWNER or Others. To the extent such changes increase the CONSTRUCTOR's costs or time, the Contract Price and Contract Time shall be equitably adjusted.

## 6.3 DELAYS AND EXTENSIONS OF TIME

6.3.1 If the CONSTRUCTOR is delayed at any time in the commencement or progress of the Work by any cause beyond the control of the CONSTRUCTOR, the CONSTRUCTOR shall be entitled to an equitable extension of the Contract Time. Examples of causes beyond the control of the CONSTRUCTOR include, but are not limited to, the following: (a) acts or omissions of the OWNER, the DESIGN PROFESSIONAL or Others; (b) changes in the Work or the sequencing of the Work ordered by the OWNER, or arising from decisions of the OWNER that impact the time of performance of the Work; (c) encountering Hazardous Materials, or concealed or unknown conditions; (d) delay authorized by the OWNER pending dispute resolution or suspension by the OWNER under section 11.1; (e) transportation delays not reasonably foreseeable; (f) labor disputes not involving the CONSTRUCTOR; (g) general labor disputes impacting the Project but not specifically related to the Worksite; (h) fire; (i) Terrorism; (j) epidemics; (k) adverse governmental actions, (l) unavoidable accidents or circumstances; (m) adverse weather conditions not reasonably anticipated. The CONSTRUCTOR shall submit any requests for equitable extensions of Contract Time in accordance with ARTICLE 8.

6.3.2 In addition, if the CONSTRUCTOR incurs additional costs as a result of a delay that is caused by items (a) through (d) immediately above, the CONSTRUCTOR may be entitled to an equitable adjustment in the Contract Price.

6.3.3 CONSTRUCTOR NOTICE OF DELAYS If delays to the Work are encountered for any reason, the CONSTRUCTOR shall provide prompt written notice to the OWNER of the cause of such delays after the CONSTRUCTOR first recognizes the delay. The OWNER and the CONSTRUCTOR agree to take reasonable steps to mitigate the effect of such delays.

6.3.4 OWNER NOTICE OF DELAYS The Owner may direct a delay in the Work for any reason by providing prompt written notice to the CONSTRUCTOR of the cause of such delays after the OWNER first recognizes the need for the delay. The OWNER and the CONSTRUCTOR agree to take reasonable steps to mitigate the effect of such delays. If the CONSTRUCTOR incurs additional costs as a result of a delay that is caused by items (a) through (d) in 6.3.1, the CONSTRUCTOR may be entitled to an equitable adjustment in the Contract Price. For the avoidance of doubt, the CONSTRUCTOR shall not be entitled to an adjustment in the Contract Price as a result of a delay that is caused by items (e) through (m) in 6.3.1.

6.4 NOTICE OF DELAY CLAIMS If the CONSTRUCTOR requests an equitable extension of the Contract Time or an equitable adjustment in the Contract Price as a result of a delay described in the section above, the CONSTRUCTOR shall give the OWNER written notice of the claim in accordance with section 8.4. If the CONSTRUCTOR causes delay in the completion of the Work, the OWNER shall be entitled to recover its additional costs. The OWNER shall process any such claim against the CONSTRUCTOR in accordance with ARTICLE 8.

6.5 LIQUIDATED DAMAGES See Section 00 74 13 Project Requirements.

## **ARTICLE 7 PRICE**

7.1 LUMP SUM As full compensation for performance by the CONSTRUCTOR of the Work in conformance with the Contract Documents, the OWNER shall pay the CONSTRUCTOR the lump sum indicated in the Agreement. The lump sum price is hereinafter referred to as the Contract Price, which shall be subject to increase or decrease as provided in ARTICLE 8.

### **7.2 ALLOWANCES**

7.2.1 All allowances stated in the Contract Documents shall be included in the Contract Price. While the OWNER may direct the amounts of, and particular material suppliers or subcontractors for, specific allowance items, if the CONSTRUCTOR reasonably objects to a material supplier or subcontractor, it shall not be required to contract with them. The OWNER shall select allowance items in a timely manner so as not to delay the Work.

7.2.2 Allowances shall include the costs of materials, supplies and equipment delivered to the Worksite, less applicable trade discounts and including requisite taxes, unloading and handling at the Worksite, and labor and installation, unless specifically stated otherwise. The CONSTRUCTOR's Overhead and profit for the allowances shall be included in the Contract Price, but not in the allowances. The Contract Price shall be adjusted by Change Order to reflect the actual costs when they are greater than or less than the allowances.

## **ARTICLE 8 CHANGES**

Changes in the Work that are within the general scope of the Agreement shall be accomplished, without invalidating this Agreement, by Change Order, and Interim Directed Change.

### **8.1 CHANGE ORDER**

8.1.1 The CONSTRUCTOR may request or the OWNER may order changes in the Work or the timing or sequencing of the Work that impacts the Contract Price or the Contract Time. All such changes

in the Work that affect Contract Time or Contract Price shall be formalized in a Change Order and processed in accordance with this article.

8.1.2 For changes in the Work, the OWNER and the CONSTRUCTOR shall negotiate an appropriate adjustment to the Contract Price or the Contract Time in good faith and conclude negotiations as expeditiously as possible. Acceptance of the Change Order and any adjustment in the Contract Price or Contract Time shall not be unreasonably withheld. Any request for an adjustment in Contract Time as a result of changes in the Work must be justified and presented in adequate detail showing that the proposed change will delay the final Contract substantial completion date

8.1.3 NO OBLIGATION TO PERFORM The CONSTRUCTOR shall not be obligated to perform changes in the Work that impact Contract Price or Contract Time until a Change Order has been executed or a written Interim Directed Change has been issued.

## 8.2 INTERIM DIRECTED CHANGE

8.2.1 The OWNER may issue a written Interim Directed Change directing a change in the Work prior to reaching agreement with the CONSTRUCTOR on the adjustment, if any, in the Contract Price or the Contract Time.

8.2.2 The OWNER and the CONSTRUCTOR shall negotiate expeditiously and in good faith for appropriate adjustments, as applicable, to the Contract Price or the Contract Time arising out of an Interim Directed Change. As the changed Work is performed, the CONSTRUCTOR shall submit its costs for such Work with its application for payment beginning with the next application for payment within thirty (30) Days of the issuance of the Interim Directed Change. If there is a dispute as to the cost to the OWNER, the OWNER shall pay the CONSTRUCTOR amounts not in dispute. In such event, the Parties reserve their rights as to the disputed amount, subject to the requirements of ARTICLE 12.

8.2.3 When the OWNER and the CONSTRUCTOR agree upon the adjustment in the Contract Price or the Contract Time, for a change in the Work directed by an Interim Directed Change, such agreement shall be the subject of a Change Order. The Change Order shall include all outstanding Interim Directed Changes on which the OWNER and CONSTRUCTOR have reached agreement on Contract Price or Contract Time issued since the last Change Order.

## 8.3 DETERMINATION OF COST

8.3.1 An increase or decrease in the Contract Price or the Contract Time resulting from a change in the Work shall be determined by one or more of the following methods:

8.3.1.1 unit prices set forth in the Agreement or as subsequently agreed; or

8.3.1.2 a mutually accepted, itemized lump sum with the increase or decrease in the COST OF THE WORK as defined in subsection 8.3.1.3 properly itemized and supported by sufficient substantiating data to permit evaluation.

8.3.1.3 COST OF THE WORK Cost of the Work as defined by this subsection. COST OF THE WORK shall include the following costs reasonably incurred to perform a change in the Work: The OWNER may require that a COST OF THE WORK form be filled out for each day's work and signed by an authorized representative of the CONSTRUCTOR and approved by the OWNER's Representative. The OWNER may also require that the CONSTRUCTOR provide sufficient documentation of actual expenses claimed under any of the following subsections:

- 8.3.1.3.1 wages paid for labor in the direct employ of the CONSTRUCTOR in the performance of the Work; Labor costs shall be itemized to indicate trade, hourly rate, man hours, and total cost;
- 8.3.1.3.2 salaries of the CONSTRUCTOR's employees when stationed at the field office to the extent necessary to complete the applicable Work, employees engaged on the road expediting the production or transportation of material and equipment, and supervisory employees from the principal or branch office performing functions directly attributable to the change. The OWNER may require that the CONSTRUCTOR provide sufficient documentation of actual expenses claimed under this subsection 8.3.1.3.2;
- 8.3.1.3.3 cost of applicable employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement and other fringe benefits as required by law, labor agreements, or paid under the CONTRACTOR's standard personnel policy, insofar as such costs are paid to employees of the CONSTRUCTOR who are included in the Cost of the Work in subsections .1 and .2 immediately above;
- 8.3.1.3.4 reasonable transportation, travel, and hotel expenses of the CONSTRUCTOR's personnel incurred in connection with the Work;
- 8.3.1.3.5 cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by the OWNER, transportation, storage, and handling. Material costs shall be itemized to include unit cost, quantity, and total cost for each item;
- 8.3.1.3.6 payments made by the CONSTRUCTOR to Subcontractors for Work performed under this Agreement. The direct expenses and overhead and profit percentages for work performed by Subcontractors is subject to the same limitations and requirements specified herein for the CONSTRUCTOR. Subcontractor costs shall be appropriately itemized and the CONSTRUCTOR shall furnish Subcontractor quotations or itemization for all costs included;
- 8.3.1.3.7 cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value of such items used, but not consumed that remain the property of the CONSTRUCTOR;
- 8.3.1.3.8 rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from the CONSTRUCTOR or Others, including installation, repair and replacement, dismantling, removal, maintenance, transportation, and delivery costs. Rental from unrelated third parties shall be reimbursed at actual cost. Rentals from the CONSTRUCTOR or its affiliates, subsidiaries, or related parties shall be reimbursed at the prevailing rates in the locality of the Worksite up to eighty-five percent (85%) of the value of the piece of equipment. Equipment costs shall be itemized to include equipment type, number of each, equipment charge out rate, and total cost for each item;
- 8.3.1.3.9 cost of the premiums for all insurance and surety bonds which the CONSTRUCTOR is required to procure or deems necessary, and approved by the OWNER including any additional premium incurred as a result of any increase in the cost of the Work;

8.3.1.3.10 sales, use, gross receipts or other taxes, tariffs, or duties related to the Work for which the CONSTRUCTOR is liable; except when a sales tax exemption certificate has been provided as indicated in subsection 3.17.2.1, related to the Change Order Work;

8.3.1.3.11 permits, fees, licenses, tests, and royalties;

8.3.1.3.12 all water, power, and fuel costs paid by the CONSTRUCTOR that are directly incurred to perform a change in the Work;

8.3.1.3.13 cost of removal of all nonhazardous substances, debris, and waste materials;

8.3.1.3.14 The percentage mark-up for overhead and profit is subject to the following limits: (a) fifteen percent (15%) maximum for Work directly performed by employees of the CONSTRUCTOR, Subcontractor, or Sub-Subcontractor; (b) five percent (5%) maximum for Work performed or passed through by a Subcontractor and passed through to the OWNER by the CONSTRUCTOR; (c) five percent (5%) maximum Subcontractor's mark-up for Work performed by a Sub-Subcontractor and passed through to the OWNER by the Subcontractor and CONSTRUCTOR; and (d) the maximum allowable mark-up shall be twenty-five percent (25%) passed through to the OWNER by the CONSTRUCTOR under any circumstances. Overhead and profit shall be shown separately for the CONSTRUCTOR and each Subcontractor of any tier performing the Change Order Work;

8.3.1.3.15 DISCOUNTS All discounts for prompt payment shall accrue to the OWNER to the extent such payments are made directly by the OWNER. To the extent payments are made with funds of the CONSTRUCTOR, all cash discounts shall accrue to the CONSTRUCTOR. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work;

8.3.1.3.16 COST REPORTING The CONSTRUCTOR shall maintain in conformance with generally accepted accounting principles a complete and current set of records that are prepared or used by the CONSTRUCTOR to calculate the Cost of Work. The OWNER shall be afforded access to the CONSTRUCTOR's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to requested payment for Cost of the Work. The CONSTRUCTOR shall preserve all such records for a period of three years after the final payment or longer where required by law; and

8.3.1.3.17 COST AND SCHEDULE ESTIMATES The CONTRACTOR shall use reasonable skill and judgment in the preparation of a cost estimate or schedule for a change to the Work, but does not warrant or guarantee the accuracy of amounts not included in a written change order signed by both Parties.

8.3.2 If an increase or decrease in the Contract Price or Contract Time cannot be agreed to as set forth in subsection 8.3.1, and the OWNER issues an Interim Directed Change, the cost of the change in the Work shall be determined by the reasonable actual expense incurred and savings realized in the performance of the Work resulting from the change. If there is a net increase in the Contract Price, the CONSTRUCTOR's Overhead and Profit shall be adjusted accordingly. In case of a net decrease in the Contract Price, the CONSTRUCTOR's Overhead and Profit shall not be adjusted unless ten percent (10%) or more of the Project is deleted. The CONSTRUCTOR shall maintain a documented, itemized accounting evidencing the expenses and savings.



8.3.3 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the Parties, but the character or quantity of such unit items as originally contemplated is so different in a proposed Change Order that the original unit prices will cause substantial inequity to the OWNER or the CONSTRUCTOR, such unit prices shall be equitably adjusted.

8.3.4 If the OWNER and the CONSTRUCTOR disagree as to whether work required by the OWNER is within the scope of the Work, the CONSTRUCTOR shall furnish the OWNER with an estimate of the costs to perform the disputed work in accordance with the OWNER's interpretations. If the OWNER issues a written order for the CONSTRUCTOR to proceed, the CONSTRUCTOR shall perform the disputed work and the OWNER shall pay the CONSTRUCTOR amounts not in dispute. In such event, both Parties reserve their rights as to whether the work was within the scope of the Work, subject to the requirements of ARTICLE 12. The OWNER's payment does not prejudice its right to be reimbursed should it be determined that the disputed work was within the scope of the Work. The CONSTRUCTOR's receipt of payment for the disputed work does not prejudice its right to receive full payment for the disputed work should it be determined that the disputed work is not within the scope of the Work.

8.4 CLAIMS FOR ADDITIONAL COST OR TIME Except as provided in subsection 6.3.2 and section 6.4 for any claim for an increase in the Contract Price or the Contract Time, the CONSTRUCTOR shall give the OWNER written notice of the claim within fourteen (14) Days after the occurrence giving rise to the claim or within fourteen (14) Days after the CONSTRUCTOR knows, or should have known with the exercise of reasonable diligence, of the condition giving rise to the claim, whichever is later. Except in an emergency, notice shall be given before proceeding with the Work. Thereafter, the CONSTRUCTOR shall submit written documentation of its claim, including appropriate supporting documentation, within twenty-one (21) Days after giving notice, unless the Parties mutually agree upon a longer period of time. Prior to submitting any claim by a Subcontractor for additional compensation, the CONSTRUCTOR shall have examined any such claim and verified its accuracy and completeness, and the CONSTRUCTOR shall have identified any Claim or portion of the Claim that is not the responsibility of the OWNER. The OWNER shall respond in writing denying or approving the CONSTRUCTOR's claim no later than fourteen (14) Days after receipt of the CONSTRUCTOR's claim. OWNER's failure to so respond shall be deemed a denial of the claim. Any change in the Contract Price or the Contract Time resulting from such claim shall be authorized by Change Order. **IMPORTANT NOTICE REGARDING CLAIM PROCEDURES:** The CONSTRUCTOR's obligation to strictly follow the notice requirements of ARTICLE 8 in its entirety including the giving of timely and complete notice of a claim is a condition precedent to recovering under any claim. Failure of the CONSTRUCTOR to strictly follow these requirements shall constitute waiver of the claim. An additional Claim made after the initial Claim has been made shall not be considered unless also submitted in accordance with ARTICLE 8 and in a timely manner.

8.5 INCIDENTAL CHANGES The OWNER may direct the CONSTRUCTOR to perform incidental changes in the Work, upon concurrence with the CONSTRUCTOR that such changes do not involve adjustments in the Contract Price or Contract Time. Incidental changes shall be consistent with the scope and intent of the Contract Documents. The OWNER shall initiate an incidental change in the Work by issuing a written order to the CONSTRUCTOR. Such written notice shall be carried out promptly and is binding on the Parties.

## **ARTICLE 9 PAYMENT**

9.1 SCHEDULE OF VALUES Within twenty-one (21) Days from the date of Notice of Award, the CONSTRUCTOR shall prepare and submit to the OWNER and, if directed, the DESIGN PROFESSIONAL, a schedule of values apportioned to the various divisions or phases of the Work. Each line item contained in the schedule of values shall be assigned a value such that the total of all items shall equal the Contract Price.

## **9.2 PROGRESS PAYMENTS**

9.2.1 APPLICATIONS The CONSTRUCTOR shall submit to the OWNER and the DESIGN PROFESSIONAL a monthly application for payment for the preceding monthly pay period on a form furnished by the OWNER. CONSTRUCTOR's applications for payment shall be itemized and supported by the CONSTRUCTOR's schedule of values and any other substantiating data as required by this Agreement. Applications for payment shall include payment requests on account of properly authorized Change Orders or Interim Directed Changes. The OWNER shall pay the amount otherwise due on any payment application in the manner and within the time provided in the Contract Documents. The OWNER shall first deduct from any progress payment any amounts due to the OWNER under the terms of this Agreement, including, but not limited to, items listed in section 9.3. The OWNER shall then deduct from the adjusted progress payment amounts to be retained pursuant to subsection 9.2.4.

9.2.2 STORED MATERIALS AND EQUIPMENT Unless otherwise provided in the Contract Documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite including applicable insurance, storage, and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on a submission by the CONSTRUCTOR of bills of sale and proof of required insurance, or such other documentation satisfactory to the OWNER to establish the proper valuation of the stored materials and equipment, the OWNER's title to such materials and equipment, and to otherwise protect the OWNER's interests therein, including transportation to the Worksite.

9.2.3 LIEN WAIVERS AND LIENS The CONSTRUCTOR represents and 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 CONSTRUCTOR 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 CONSTRUCTOR's knowledge, information and belief, be free and clear of liens, Claims, security interests or encumbrances in favor of the CONSTRUCTOR, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

9.2.3.1 The OWNER reserves the right to request monthly lien waivers and/or subcontractor claim releases as a condition of payment of any progress payment. Subcontractor claim releases shall be submitted on the OWNER's standard form.

9.2.4 RETAINAGE The OWNER will withhold five percent (5%) from each progress payment, after any applicable adjustment in accordance with this Agreement, until final payment, consistent with the provisions of Chapters 262 and 573 of the Code of Iowa.

9.3 ADJUSTMENT OF CONSTRUCTOR'S PAYMENT APPLICATION The OWNER may adjust or reject a payment application or nullify a previously approved payment application, in whole or in part, as may reasonably be necessary to (a) protect the OWNER from loss or damage or (b) pay or reimburse the OWNER for any amounts due to the OWNER under the terms of this Agreement, including, but not limited to, the following:

9.3.1 the CONSTRUCTOR's repeated failure to perform the Work as required by the Contract Documents;

9.3.2 except as accepted by the insurer providing builders risk or other property insurance covering the Project, loss or damage arising out of or relating to the Agreement and caused by the CONSTRUCTOR to the OWNER or to Others to whom the OWNER may be liable;

9.3.3 the CONSTRUCTOR's failure to properly pay Subcontractors and Material Suppliers following receipt of such payment from the OWNER;

9.3.4 rejected, nonconforming or Defective Work not corrected in a timely fashion;

- 9.3.5 reasonable evidence of delay in performance of the Work such that the Work will not be completed within the Contract Time;
- 9.3.6 reasonable evidence demonstrating that the unpaid balance of the Contract Price is insufficient to fund the cost to complete the Work; and
- 9.3.7 uninsured third-party claims involving the CONSTRUCTOR, or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until the CONSTRUCTOR furnishes the OWNER with adequate security in the form of a surety bond, letter of credit, or other collateral or commitment sufficient to discharge such claims if established.
- 9.3.8 any other deduction that represents a payment due to the OWNER from the CONSTRUCTOR in accordance with the terms of this Agreement.
- 9.3.9 additional costs incurred by the OWNER, including but not limited to Design Professional and Consultant fees, as a result of schedule delays caused by CONSTRUCTOR.

Within fourteen (14) Days after receipt of an application for payment, the OWNER shall give written notice to the CONSTRUCTOR stating its specific reasons for any adjustment, rejection, or nullification of an application for payment, and the remedial actions to be taken by the CONSTRUCTOR in order to receive payment, if any.

9.4 ACCEPTANCE OF WORK Neither the OWNER's payment of progress payments nor its partial or full use or occupancy of the Project constitutes acceptance of Work that is defective or does not comply with the Contract Documents.

#### 9.6 SUBSTANTIAL COMPLETION

- 9.6.1 The CONSTRUCTOR shall notify the OWNER and, if directed, the DESIGN PROFESSIONAL, when it considers Substantial Completion of the Work or a designated portion to have been achieved. The OWNER, with the assistance of its DESIGN PROFESSIONAL, shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or used for its intended use by the OWNER without excessive interference in completing any remaining unfinished Work. If the OWNER determines that the Work or designated portion has not reached Substantial Completion, the OWNER shall promptly compile a list of items to be completed or corrected so the OWNER may occupy or use the Work or designated portion for its intended use. The CONSTRUCTOR shall promptly complete all items on the list.
- 9.6.2 When Substantial Completion of the Work or a designated portion is achieved, the OWNER shall prepare a Certificate of Substantial Completion establishing the date of Substantial Completion and the respective responsibilities of the OWNER and CONSTRUCTOR for interim items such as security, maintenance, utilities, insurance, and damage to the Work. In the absence of a clear delineation of responsibilities, the OWNER shall assume all responsibilities for items such as security, maintenance, utilities, insurance, and damage to the Work. The Certificate of Substantial Completion shall also list any items to be completed or corrected, and establish the time for their completion or correction. The Certificate of Substantial Completion shall be issued by the OWNER to the CONSTRUCTOR and, to the DESIGN PROFESSIONAL for notice of responsibilities assigned in the Certificate of Substantial Completion.
- 9.6.3 Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or a designated portion.
- 9.6.4 At any time after all or any part of the Work is substantially completed in accordance with subsection 9.6.1 above, the CONSTRUCTOR may request the release of all or part of the

retainage owed under the provisions of sections 262.34, Code of Iowa. Any request for release of retainage under this section 9.6.4 must be submitted on the form supplied by the OWNER. In addition to any requirements under Iowa Code section 262.34 or other applicable law, such request shall be accompanied by (a) subcontractor claim releases and/or waiver of claim rights for all portions of the Work for which release of retainage is requested on the OWNER's form, and (b) the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Any request for release of retainage must be submitted to the individual designated by the OWNER as its representative. Any request for release of retainage that does not conform with the requirements of this subsection 9.6.4 is deemed denied for failure to comply with the requirements of this Agreement.

9.7 PARTIAL OCCUPANCY OR USE The OWNER may occupy or use completed or partially completed portions of the Work when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) consent to the occupancy or use, and (c) appropriate public authorities authorize the occupancy or use. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the OWNER and CONSTRUCTOR have accepted in writing the responsibilities assigned to each of them

#### 9.8 FINAL COMPLETION AND FINAL PAYMENT

9.8.1 Upon notification from the CONSTRUCTOR that the Work is complete and ready for final inspection and acceptance, the OWNER with the assistance of its DESIGN PROFESSIONAL shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.

9.8.2 When Final Completion has been achieved, the CONSTRUCTOR shall prepare for the OWNER's written acceptance a final application for payment stating that to the best of the CONSTRUCTOR's knowledge, and based on the OWNER's inspections, the Work has reached Final Completion in accordance with the Contract Documents.

9.8.3 When the Work is found acceptable under the Contract Documents, the OWNER will promptly issue a Certificate of Final Completion. Such notice will establish the date of Final Completion upon which the Contract is accepted as complete and upon which all remaining guarantees and warranties under the Contract shall commence.

9.8.4 The date of Final Completion shall also establish the commencement of the thirty-day period during which final payment of the balance due under the Contract must be retained by the OWNER under the provisions of Chapter 573, Code of Iowa and per provisions of this Agreement. The OWNER shall release retained funds in accordance with the provisions of Iowa Code Chapters 262 and 573 and per provisions of this Agreement. Final Completion is contingent on submission of the following to the OWNER: (a) record drawings which have been reviewed and approved by the Design Professional or Others as directed by the OWNER, manuals, warranties and all other close-out documents required by the Contract Documents; (b) consent of any surety; (c) any outstanding known and unreported accidents or injuries experienced by the CONSTRUCTOR or its Subcontractors at the Worksite; and (d) Targeted Small Business Final Payment Reporting Form(s).

9.8.5 The Final Payment due to the CONTRACTOR, if any, shall be determined by the OWNER after making necessary adjustments for any deduction that represents a payment due to the OWNER from the CONSTRUCTOR in accordance with the terms of this Agreement, which deductions or adjustments shall become the property of the OWNER. The OWNER reserves the right to issue Final Payment to the CONTRACTOR as determined by the OWNER and in accordance with applicable law, regardless of whether CONSTRUCTOR has submitted an application for Final Payment.

9.8.6 OWNER RESERVATION OF CLAIMS By issuing final payment to the CONSTRUCTOR, the OWNER does not waive, and hereby reserves, any and all claims it may have against the CONSTRUCTOR, including, but not limited to, claims relating to liens or similar encumbrances, warranties, Defective Work, latent defects, breach of contract, and any other claim at law or in equity.

9.8.7 CONSTRUCTOR ACCEPTANCE OF FINAL PAYMENT Unless the CONSTRUCTOR provides written identification of unsettled claims with an application for final payment, its acceptance of final payment constitutes a waiver of such claims.

9.9 LATE PAYMENT Payments due but unpaid shall bear interest from the date payment is due in accordance with provisions of Chapter 573 of the Code of Iowa.

## **ARTICLE 10 INDEMNITY, INSURANCE, AND BONDS**

### **10.1 INDEMNITY**

10.1.1 To the fullest extent permitted by law, the CONSTRUCTOR shall indemnify and hold harmless the OWNER, the OWNER's officers, directors, members, consultants, agents, employees, successors and assigns (the Indemnitees) from and against all claims, damages, losses, and expenses, including but not limited to reasonable attorney's fees, arising out of a claim for bodily injury and/or property damage, other than to the Work itself and other property insured, but only to the extent caused by the negligent or wrongful acts or omissions in the performance of the terms and conditions of this Agreement of the CONSTRUCTOR, its Subcontractors, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable. Such obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person.

10.1.2 NO LIMITATION ON LIABILITY In any and all claims against the Indemnitees by any employee of the CONSTRUCTOR, anyone directly or indirectly employed by the CONSTRUCTOR or anyone for whose acts the CONSTRUCTOR may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONSTRUCTOR under workers' compensation acts, disability benefit acts, or other employment benefit acts. The requirements for insurance are not intended to limit, qualify or restrict the liabilities and obligations otherwise assumed by the CONSTRUCTOR in this Agreement, including provisions concerning indemnification.

### **10.2 INSURANCE**

10.2.1 Before commencing the Work, the CONSTRUCTOR shall purchase from and maintain with a company or companies lawfully authorized to do business in the State of Iowa such insurance as specified in Section 00 74 13 Project Requirements that will protect the CONSTRUCTOR from Claims set forth below which may arise out of or result from the CONSTRUCTOR's operations under the Contract and for which the CONSTRUCTOR may be legally liable, whether such operations be by the CONSTRUCTOR 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:

10.2.1.1 claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;

10.2.1.2 claims for damages because of bodily injury, occupational sickness or disease, or death of the CONSTRUCTOR's employees;

10.2.1.3 claims for damages because of bodily injury, sickness or disease, or death of any person other than the CONSTRUCTOR's employees;

- 10.2.1.4 claims for damages insured by standard personal injury liability coverage which are sustained (a) by a person as a result of an offense directly or indirectly related to employment of such person by the CONSTRUCTOR, or (b) by another person;
- 10.2.1.5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- 10.2.1.6 claims for liability that may result from injuries or damage arising out of completed work;
- 10.2.1.7 claims for damages to existing adjacent property that may arise from the performance of the Work to the extent caused by the negligent acts or omissions of the CONSTRUCTOR
- 10.2.1.8 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; and
- 10.2.1.9 claims involving contractual liability insurance applicable to the CONSTRUCTOR's obligations under section 10.1.

10.2.2 The CONSTRUCTOR shall take out insurance policies with requirements as specified in Section 00 74 13 Project Requirements, on a primary, non-contributory basis and issued by an insurance company or companies legally authorized to conduct business in the State of Iowa with an A. M. Best rating of A-, VII or better. The insurance requirements may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by following form Excess or Umbrella Liability policies.

10.2.3 Certificates of Insurance acceptable to the OWNER shall be filed with the OWNER prior to commencement of the Work. These Certificates and the insurance policies required by 10.2 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. If any of the foregoing insurance coverages are required to remain in force after final payment, the CONSTRUCTOR shall renew policies which expire during the period of required coverage and, prior to each renewal date, shall notify the OWNER of such renewal.

10.2.4 The insurance required by section 10.2 shall be written for not less than limits of liability specified in the Section 00 74 13 Project Requirements or required by law, whichever coverage is greater. Coverages, shall be written on an occurrence basis, and shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment; except that products and completed operations coverage must be maintained for a minimum of two (2) years after final payment.

10.2.5 The CONSTRUCTOR shall either (a) require each Subcontractor to procure and to maintain, for the period of time required in section 10.2, Subcontractor's Liability Insurance of the type and in the same amounts as specified above or (b) insure the activities of Subcontractors in the CONSTRUCTOR's own policy.

### 10.3 PROPERTY INSURANCE

10.3.1 Unless specified otherwise in Section 00 74 13 Project Requirements and before work commences, the OWNER shall purchase and maintain Builder's Risk Insurance in an amount equal to the construction cost, less insurance exclusions until final payment has been made or otherwise agreed to in writing by all persons and entities who are beneficiaries of such insurance or until no person or entity, other than the OWNER, has an insurable interest in the property.

The OWNER shall be the named insured on such policy. This insurance shall also name the CONSTRUCTOR, Subcontractors, Sub-subcontractors, and Material Suppliers as loss payees.

This insurance shall be written as a Builder's Risk Policy or equivalent form to cover all risks of physical loss except those specifically excluded by the policy, and shall insure (a) at least against the perils of fire, lightning, explosion (including boilers), windstorm, hail, smoke, aircraft and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, terrorism, debris removal, flood, earthquake, earth movement, water damage, wind damage, collapse however caused; (b) resulting damage from defective design, workmanship or material; and (c) direct damage caused by interruption of gas, electric, water and steam service.

10.3.2 The Builders Risk Insurance provided by the OWNER shall not cover any tools, apparatus, machinery, scaffolding, hoists, forms, staging, shoring, and other similar items commonly referred to as construction equipment, which may be on the site and the capital value of which is not included in the Work. The CONSTRUCTOR shall make arrangements for any insurance desired on such construction equipment.

10.3.3 The OWNER shall make available a copy of the policy for viewing by the CONSTRUCTOR on the OWNER's premises, at a location specified by the OWNER.

10.3.4 CONSTRUCTOR is required to immediately notify the OWNER upon discovery of any loss. If a claim is expected to be made against the OWNER's Builder's Risk Insurance policy, the CONSTRUCTOR must notify the OWNER within forty-eight (48) hours after discovery of the loss. An initial detailed written report of the loss must be furnished to the OWNER within ten (10) working days of the loss.

10.3.5 The CONSTRUCTOR shall be responsible for the deductible for each Claim made against the OWNER's Builder's Risk policy. Risk of loss or damage to the Work that is not covered by insurance shall be the responsibility of the CONSTRUCTOR until the Date of Substantial Completion unless otherwise agreed to by the Parties.

#### 10.4 BONDS

10.4.1 Performance and Payment Bonds are required of the CONSTRUCTOR. Performance and Payment Bonds must be executed solely by corporations authorized to contract as surety in Iowa and who are not affiliated with or owned by the CONSTRUCTOR. Attorney's-in-fact who sign surety bonds must file with each bond a certified and effectively dated copy of their power of attorney. The penal sum of the bonds shall each be 100% of the original Contract Price, and shall provide coverage for any and all change orders unless otherwise instructed by the OWNER. The OWNER reserves the right to require that the CONSTRUCTOR provide a rider in an amount to be determined by the OWNER for any increase in the original Contract Price. The CONSTRUCTOR shall endeavor to keep its surety advised of changes potentially impacting the Contract Time and Contract Price, though the CONSTRUCTOR shall require that its surety waives any requirement to be notified of any alteration or extension of time. A copy of the CONSTRUCTOR's Payment Bond for the Project, if any, shall be furnished by the OWNER or the CONSTRUCTOR upon the Subcontractor's written request.

10.4.2 If CONSTRUCTOR is a Targeted Small Business, the CONSTRUCTOR may be eligible to receive a waiver of the performance, payment, or bid bond requirements pursuant to the provisions of the Iowa Satisfaction and Performance Bond Program, Chapter 12.44, of the Code of Iowa. Certification of eligibility to participate in the Iowa Satisfaction and Performance Bond Program is determined by the Department of Inspections and Appeals.

10.5 PROFESSIONAL LIABILITY INSURANCE To the extent the CONSTRUCTOR is required to procure design services in accordance with section 3.15, the CONSTRUCTOR shall require its design

professionals to obtain professional liability insurance if required by Section 00 74 13 Project Requirements.

## **ARTICLE 11 SUSPENSION, NOTICE TO CURE, AND TERMINATION**

### **11.1 SUSPENSION BY OWNER FOR CONVENIENCE**

11.1.1 OWNER SUSPENSION Should the OWNER order the CONSTRUCTOR in writing to suspend, delay, or interrupt the performance of the Work for the convenience of the OWNER and not due to any act or omission of the CONSTRUCTOR or any person or entity for whose acts or omissions the CONSTRUCTOR may be liable, then the CONSTRUCTOR shall immediately suspend, delay or interrupt that portion of the Work for the time period ordered by the OWNER. The Contract Price and the Contract Time shall be equitably adjusted by Change Order for the cost and delay resulting from any such suspension.

11.1.2 Any action taken by the OWNER that is permitted by any other provision of the Contract Documents and that results in a suspension of part or all of the Work does not constitute a suspension of Work under this section.

11.2 NOTICE TO CURE A DEFAULT If the CONSTRUCTOR persistently fails to supply enough qualified workers, proper materials, or equipment to maintain the approved Schedule of the Work, or fails to make prompt payment to its workers, Subcontractors or Material Suppliers, disregards Laws or orders of any public authority having jurisdiction, or is otherwise guilty of a material breach of a provision of this Agreement, the CONSTRUCTOR may be deemed in default. If the CONSTRUCTOR fails within seven (7) Days after receipt of written notice to commence and continue satisfactory correction of such default with diligence and promptness, then the OWNER shall give the CONSTRUCTOR a second notice to correct the default within a three (3) Day period.

11.2.1 If the CONSTRUCTOR fails to promptly commence and continue satisfactory correction of the default following receipt of such second notice, the OWNER without prejudice to any other rights or remedies may: (a) take possession of the Worksite; (b) complete the Work utilizing reasonable means; (c) withhold payment due to the CONSTRUCTOR; and (d) as the OWNER deems necessary, supply workers and materials, equipment and other facilities for the satisfactory correction of the default, and charge the CONSTRUCTOR the costs and expenses, including reasonable Overhead, profit and attorneys' fees.

11.2.2 In the event of an emergency affecting the safety of persons or property, the OWNER may immediately commence and continue satisfactory correction of such default without first giving written notice to the CONSTRUCTOR, but shall give prompt written notice of such action to the CONSTRUCTOR following commencement of the action.

### **11.3 OWNER'S RIGHT TO TERMINATE FOR DEFAULT**

11.3.1 TERMINATION BY OWNER FOR DEFAULT If, within seven (7) Days of receipt of a notice to cure pursuant to section 11.2, the CONSTRUCTOR fails to commence and satisfactorily continue correction of the default set forth in the notice to cure, the OWNER may notify the CONSTRUCTOR and, the surety, that it intends to terminate the Agreement for default absent appropriate corrective action within fourteen (14) additional Days. After the expiration of the additional fourteen (14) Day period, the OWNER may terminate the Agreement by written notice absent appropriate corrective action. Termination for default is in addition to any other remedies available to the OWNER under section 11.2. If the OWNER's costs arising out of the CONSTRUCTOR's failure to cure, including the costs of completing the Work and reasonable attorneys' fees, exceed the unpaid Contract Price, the CONSTRUCTOR shall be liable to the OWNER for such excess costs. If the OWNER exercises its rights under this section, upon the request of the CONSTRUCTOR the OWNER shall furnish to the CONSTRUCTOR a detailed accounting of the costs incurred by the OWNER.



11.3.2 USE OF CONSTRUCTOR'S MATERIALS, SUPPLIES, AND EQUIPMENT If the OWNER or Others perform work under this section, the OWNER shall have the right to take and use any materials, supplies and equipment belonging to the CONSTRUCTOR and located at the Worksite for the purpose of completing any remaining Work. Immediately upon completion of the Work, any remaining materials, supplies or equipment not consumed or incorporated in the Work shall be returned to the CONSTRUCTOR in substantially the same condition as when they were taken, reasonable wear and tear excepted.

11.3.3 If the CONSTRUCTOR files a petition under the Bankruptcy Code, the Agreement shall terminate if the CONSTRUCTOR or the CONSTRUCTOR's trustee rejects the Agreement, or if there has been a default and the CONSTRUCTOR is unable to give adequate assurance that the CONSTRUCTOR will perform as required by the Agreement or otherwise is unable to comply with the requirements for assuming the Agreement under the applicable provisions of the Bankruptcy Code.

11.3.4 The OWNER shall make reasonable efforts to mitigate damages arising from CONSTRUCTOR default, and shall promptly invoice the CONSTRUCTOR for all amounts due pursuant to sections 11.2 and 11.3.

11.3.5 If the OWNER terminates the Agreement for default, and it is later determined that the CONSTRUCTOR was not in default, or that the default was excusable under the terms of the Contract Documents, then, in such event, the termination shall be deemed a termination for convenience, and the rights of the Parties shall be as set forth in section 11.4.

#### 11.4 TERMINATION BY OWNER FOR CONVENIENCE

11.4.1 Upon written notice to the CONSTRUCTOR, the OWNER may, without cause, terminate this Agreement effective upon the date identified by the OWNER in the written notice. The CONSTRUCTOR shall immediately stop the Work, follow the OWNER's instructions regarding shutdown and termination procedures, and strive to minimize any further costs. Provisions of law as contained in Chapter 573A of the Code of Iowa, current edition, (which pertains to termination of contracts for construction of public improvements when Work thereon is stopped because of a national emergency) shall apply to and be a part of this Contract and binding upon all Parties hereto, including Subcontractors and Sureties.

11.4.2 If the OWNER terminates the Agreement for Convenience, the CONSTRUCTOR shall be paid: (a) for the Work performed to date including Overhead and profit; (b) for all demobilization costs and costs incurred as a result of the termination but not including Overhead or profit on Work not performed;

#### 11.5 CONSTRUCTOR'S RIGHT TO TERMINATE

11.5.1 Upon seven (7) Days' written notice to the OWNER, the CONSTRUCTOR may terminate the Agreement if the Work has been stopped for a thirty (30) Day period through no fault of the CONSTRUCTOR for any of the following reasons: (a) under court order or order of other governmental authorities having jurisdiction; (b) as a result of the declaration of a national emergency or other governmental act during which, through no act or fault of the CONSTRUCTOR, materials are not available; or (c) suspension by the OWNER for convenience pursuant to section 11.1

11.5.2 In addition, upon seven (7) Days' written notice to the OWNER, the CONSTRUCTOR may terminate the Agreement if the OWNER: (a) assigns the Agreement over the CONSTRUCTOR's reasonable objection; or (b) fails to pay the CONSTRUCTOR in accordance with the Agreement and the CONSTRUCTOR has complied with section 9.5; or (c) otherwise materially breaches the Agreement.

11.5.3 Upon termination by the CONSTRUCTOR in accordance with section 11.5, the CONSTRUCTOR shall be entitled to recover from the OWNER payment for all Work properly executed.

11.6 If this Agreement is terminated for any reason, the CONSTRUCTOR shall: (a) execute and deliver to the OWNER all papers, documents, and submissions required under this Agreement, whether in draft or final form; (b) take all action required to assign, transfer, and vest in the OWNER the rights of the CONSTRUCTOR to all materials, supplies and equipment for which payment has been or will be made in accordance with the Contract Documents and all subcontracts, orders and commitments which have been made in accordance with the Contract Documents; (c) exert reasonable effort to reduce to a minimum the OWNER's liability for subcontracts, orders, and commitments that have not been fulfilled at the time of the termination; (d) cancel any subcontracts, orders, and commitments as the OWNER directs; and (e) sell at prices approved by the OWNER any materials, supplies and equipment as the OWNER directs, with all proceeds paid or credited to the OWNER.

11.7 OBLIGATIONS ARISING BEFORE TERMINATION Even after termination, the provisions of the Agreement still apply to any Work performed, payments made, events occurring, costs charged or incurred or obligations arising before the termination date.

## **ARTICLE 12 DISPUTE MITIGATION – DIRECT DISCUSSIONS**

12.1 WORK CONTINUANCE AND PAYMENT Unless otherwise agreed in writing, the CONSTRUCTOR shall continue the Work and maintain the Schedule of the Work during any dispute mitigation or resolution proceedings. If the CONSTRUCTOR continues to perform, the OWNER shall continue to make payments in accordance with this Agreement.

12.2 DIRECT DISCUSSIONS If the Parties cannot reach resolution on a matter relating to or arising out of this Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who shall record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days from the date of first discussion, the Parties' representatives shall immediately inform senior executives or administrators of the Parties in writing that resolution was not effected. Upon receipt of such notice, the senior executives or administrators of the Parties shall meet within five (5) Business Days to endeavor to reach resolution. The time periods identified in this section shall be extended upon the reasonable request of either party.

12.3 LIEN RIGHTS Nothing in this article shall limit any rights or remedies not expressly waived by the CONSTRUCTOR that the CONSTRUCTOR may have under lien laws.

## **ARTICLE 13 MISCELLANEOUS**

13.1 EXTENT OF AGREEMENT Except as expressly provided, the Agreement is for the exclusive benefit of the Parties, and not for the benefit of any third party. The Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral.

13.2 ASSIGNMENT Except as to the assignment of proceeds, neither Party shall assign its interest in the Agreement without the written consent of the other Party. The terms and conditions of the Agreement shall be binding upon both Parties, their partners, successors, assigns, and legal representatives. Neither Party shall assign the Agreement as a whole without written consent of the other except that the OWNER may assign the Agreement to a wholly owned subsidiary of the OWNER when the OWNER has fully indemnified the CONSTRUCTOR or to an institutional lender providing construction financing for the Project as long as the assignment is no less favorable to the CONSTRUCTOR than this Agreement. If such assignment occurs, the CONSTRUCTOR shall execute any consent reasonably required. In such event, the wholly owned subsidiary or lender shall assume the OWNER's rights and obligations under the Contract Documents. If either Party attempts to make such an

assignment, that Party shall nevertheless remain legally responsible for all obligations under this Agreement, unless otherwise agreed by the other Party.

13.3 GOVERNING LAW The Agreement shall be governed by the laws of the State of Iowa, and any action or suit arising out of or related to this Agreement shall be initiated in the courts in the county in which the project is located.

13.4 SEVERABILITY The partial or complete invalidity of any one or more provisions of the Agreement shall not affect the validity or continuing force and effect of any other provision.

13.5 NO WAIVER OF PERFORMANCE The failure of either Party to insist, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right with respect to further performance or any other term, covenant, condition, or right, nor shall such action or failure to act constitute approval or acquiescence in a breach unless specifically agreed to in writing.

13.6 TITLES AND GROUPINGS The titles given to the articles are for ease of reference only and shall not be relied upon or cited for any other purpose.

13.7 JOINT DRAFTING The Parties expressly agree that the Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, the Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

13.8 ELECTRONIC TRANSACTIONS AND EXECUTION IN COUNTERPARTS.

13.8.1 To the fullest extent permitted by Iowa Code Chapter 554D, the Parties agree that electronic records, signatures, systems, formats, transmissions and communications (collectively, Electronic Transactions) may be utilized for this Project and this Agreement and all related documents, records, submissions, approvals, and communications (Ancillary Agreements). The Parties agree that electronic signatures are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility. The Parties further agree that Electronic Transactions may be relied on for the purposes of binding information transfer for this Project. Unless otherwise agreed to in writing by the Parties, the following shall be deemed an acceptable electronic signature for the purposes of this subsection: an electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

In the event the laws, rules, or regulations of a third party governmental agency or entity do not permit the use of Electronic Transactions or Electronic Signatures, then this section shall not apply but only to the extent necessary to comply with the laws, rules, or regulations of the third party governmental agency or entity.

13.8.2 This Agreement, and any Ancillary Agreements, may be executed in one or more counterparts, each of which shall be deemed an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement, or any Ancillary Agreement, transmitted by any means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement or such Ancillary Agreement.

13.9 RIGHTS AND REMEDIES 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.

## 13.10 CODE OF FAIR PRACTICES

13.10.1 During the performance of this Contract, the CONSTRUCTOR agrees as follows:

13.10.1.1 The CONSTRUCTOR will not discriminate against any employee or applicant for employment because of race, creed, color, religion, national origin, sex, age or physical or mental disability, or status as a U.S. veteran. The CONSTRUCTOR will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, religion, national origin, sex, age, physical or mental disability, or status as a U.S. veteran except where it relates to a bona fide occupational qualification. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSTRUCTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Board of Regents, State of Iowa setting forth provisions of this nondiscrimination clause;

13.10.1.2 The CONSTRUCTOR will in all solicitations or advertisements for employees placed by or on behalf of the CONSTRUCTOR, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sex, age, physical or mental disability, or status as a U.S. veteran except where it relates to a bona fide occupational qualification;

13.10.1.3 The CONSTRUCTOR will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the CONSTRUCTOR's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment;

13.10.1.4 The CONSTRUCTOR will comply with all relevant provisions of state and federal laws and regulations, and all provisions relevant to fair application of the rules and regulations of the Board of Regents, State of Iowa and of its institutions. The CONSTRUCTOR will furnish all information and reports requested by the Board of Regents, State of Iowa or its institutions or required by or pursuant to the rules and regulations thereof and will also permit access to its payroll and employment records by the Board of Regents, State of Iowa or its institutional representatives for purposes of investigation to ascertain compliance with such rules, regulations or requests, or with this nondiscrimination clause;

13.10.1.5 The event of the CONSTRUCTOR's noncompliance with the nondiscrimination clauses of this Contract or with any of the aforesaid rules, regulations or requests, this Contract may be cancelled, terminated or suspended in whole or in part and the CONSTRUCTOR may be declared ineligible for further contracts with the Board of Regents, State of Iowa. In addition, the Board of Regents, State of Iowa or its institutions may take such further action, and such other sanctions may be imposed and remedies invoked, as provided by the Code of Iowa, as heretofore and hereafter amended, or by the rules and regulations of the Board of Regents, State of Iowa or its institutions or as otherwise provided by law; and

13.10.1.6 The CONSTRUCTOR will include the provisions of subsections 13.10.1.1 through 13.10.1.5 hereof in every subcontract and purchase order unless specifically exempted by approval of the Board of Regents, State of Iowa, in accordance with the rules and regulations of said Board, so that such provisions will be binding on each Subcontractor and vendor. The CONSTRUCTOR will take such action with respect to any Subcontractor or purchase order as the Board of Regents, State of Iowa or its

institutions or the authorized representative thereof, may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the CONSTRUCTOR becomes involved in, or is threatened with, litigation by a Subcontractor or vendor as a result of such direction by the Board of Regents, State of Iowa or its institutions, the CONSTRUCTOR may request the State of Iowa to enter into such litigation to protect the interests of the State of Iowa.

13.11 NOTICES Any notice, demand or communication required or permitted to be delivered or given by the provisions of this Agreement shall be deemed to have been effectively delivered or given and received on the date (a) personally delivered to the individual identified below, (b) when deposited by registered or certified mail, with postage and charges prepaid and addressed to individual at the address identified below, or (c) when sent and actually received through electronic mail by the OWNER'S Representative and the CONSTRUCTOR'S project manager.

## **ARTICLE 14 CONTRACT DOCUMENTS**

14.1 EXISTING CONTRACT DOCUMENTS The Contract Documents in existence are listed in Section 00 52 13 Form of Agreement Between OWNER and CONSTRUCTOR.

### **14.2 INTERPRETATION OF CONTRACT DOCUMENTS**

14.2.1 The DRAWINGS and SPECIFICATIONS are complementary. If Work is shown only on one but not on the other, the CONSTRUCTOR shall perform the Work as though fully described on both consistent with the Contract Documents and reasonably inferable from them.

14.2.2 In case of conflicts between the DRAWINGS and SPECIFICATIONS, the SPECIFICATIONS shall govern. In any case of omissions or errors in figures, DRAWINGS or SPECIFICATIONS, the CONSTRUCTOR shall immediately submit the matter to the OWNER for clarification. The OWNER's clarifications are final and binding on all Parties, subject to an equitable adjustment in Contract Time or Contract Price or dispute mitigation and resolution.

14.2.3 Where figures are given, they shall be preferred to scaled dimensions.

14.2.4 Unless otherwise specifically defined in the Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.

14.2.5 ORDER OF PRECEDENCE In case of any inconsistency, conflict or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders and written amendments to the Agreement; (b) the Agreement; (c) subject to subsection 14.2.2 the DRAWINGS (large scale governing over small scale), SPECIFICATIONS and addenda issued prior to the execution of the Agreement or signed by both Parties; (d) information furnished by the OWNER pursuant to section 4.2 or designated as a Contract Document in section 14.1; (e) other documents listed in the Agreement. Among categories of documents having the same order of precedence, the term or provision that includes the latest date shall control. Information identified in one Contract Document and not identified in another shall not be considered a conflict or inconsistency.

Section 00 73 13

INSTITUTION REQUIREMENTS

IOWA STATE UNIVERSITY

TABLE OF ARTICLES

1. OWNER'S REPRESENTATIVE
2. SAFETY OF PERSONS AND PROPERTY
3. USE OF SITE
4. SUBMITTALS
5. TIME
6. PAYMENT
7. MISCELLANEOUS

ARTICLE 1 - OWNER'S REPRESENTATIVE

1.1 DEFINITIONS

1.1.1 The Owner's Representative shall be the Associate Vice President for Facilities of Facilities Planning and Management, General Services Building, Iowa State University, Ames, Iowa.

1.1.2 The Owner's Representative hereby authorizes the following persons to represent the OWNER in the fulfillment of their respective duties as hereinafter described:

1.1.2.1 The Director for Design and Construction Services

1.1.2.2 The Owner's Construction Manager

1.2 DUTIES OF THE OWNER'S REPRESENTATIVE

1.2.1 The Owner's Representative is authorized to act on behalf of the OWNER. The Owner's Representative will provide general administration of the contract and shall fulfill the duties, rights and obligations of the OWNER under the Contract Documents.

1.2.2 All communications between the OWNER and the CONSTRUCTOR shall be made through the Owner's Representative, including bond and insurance inquiries.

1.2.3 The Owner's Representative will have authority to reject work which does not conform to the Contract Documents.

1.2.4 The Owner's Representative will prepare and initiate Contract Change Orders as provided in the General Conditions.

1.3 DUTIES OF THE OWNER'S CONSTRUCTION MANAGER

1.3.1 The Owner's Construction Manager shall act as liaison between the CONSTRUCTOR and the Owner's Representative.

1.3.2 The Owner's Construction Manager will observe the progress of the Work and determine in general that the Work is being performed in accordance with the requirements of the Contract Documents, will keep the OWNER informed of the progress of the Work, and will endeavor to guard the OWNER against defects and deficiencies in the Work and achieve satisfactory performance from each of the contractors. The Owner's Construction Manager

will have the authority to reject Work which does not conform to the Contract Documents.

- 1.3.3 The Owner's Construction Manager will recommend necessary or desirable changes to the DESIGN PROFESSIONAL and the OWNER, review requests for changes, assist in the preparation of documentation of changes, assist in negotiating contractors' proposals, and submit recommendations on appropriate action on changes to the Work to the OWNER.
- 1.3.4 The Owner's Construction Manager may authorize minor changes in the Work which do not involve a change in contract price and which do not affect compliance with the Contract Documents.
- 1.3.5 The Owner's Construction Manager will review all Applications for Payment by the CONSTRUCTOR, including final payment.
- 1.3.6 The Owner's Construction Manager will consult with the DESIGN PROFESSIONAL as required to request interpretations for the meaning and intent of the Drawings and Specifications, and assist in the resolution of questions which may arise.
- 1.3.7 The Owner's Construction Manager will, with the DESIGN PROFESSIONAL and the OWNER's operations personnel, observe the contractors' checkout of utilities, operational systems and equipment for readiness and assist in their initial start-up and testing.
- 1.3.8 The Owner's Construction Manager shall assist in coordinating the CONSTRUCTOR's operations with those of the OWNER. The Owner's Construction Manager, however, shall not perform any duties for the CONSTRUCTOR.

## **ARTICLE 2 - SAFETY OF PERSONS AND PROPERTY**

- 2.1 The CONSTRUCTOR is responsible for conducting a safety program and/or precautions on the project site that assures work on the site is conducted in accordance with all guidelines and requirements of OSHA and other applicable laws, building and construction codes, and sound construction practice. The CONSTRUCTOR shall prepare, implement and enforce a project safety plan for the purpose of maintaining a site where work is conducted in a safe manner. A copy of the safety plan shall be maintained on site at all times.
- 2.2 ACCIDENT PREVENTION: The safety provisions of applicable laws, building and construction codes shall be observed. Machinery, equipment and all hazards shall be guarded or eliminated in accordance with the safety provisions of the latest edition of the Manual of Accident Prevention in Construction, published by the Associated General Contractors of America, to the extent that such provisions are not in contravention of applicable laws.
- 2.3 The Work shall be governed by applicable provisions of the general law, including the latest amendments of the following:
  - 2.3.1 William-Steiger Occupational Safety & Health Act of 1970, Public Law 91-596.
  - 2.3.2 Part 1910 - Occupational Safety & Health Standards, Chapter XVII of Title of 29, Code of Federal Regulations.
  - 2.3.3 Part 1518 - Safety and Health Regulations for Construction, Chapter XIII of Title 29, Code of Federal Regulations.
- 2.4 The CONSTRUCTOR shall comply with provisions of Chapter 88 of the Code of Iowa pertaining to Occupational Safety and Health Administration (OSHA) entrance and inspections which states that the State Labor Commissioner or State Labor Commissioner's representative upon presenting appropriate credentials to the OWNER, operator, or agent in charge, is authorized:

- 2.4.1 to enter without delay and at reasonable times a factory, plant, establishment, construction site, or other area, work place or environment, where work is performed by an employee of an employer;
- 2.4.2 to inspect and investigate during regular working hours and other reasonable times, and within reasonable limits, and within a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, OWNER, operator, agent or employer.
- 2.5 Absolutely no alcoholic beverages or use of illegal drugs will be permitted on the site.
- 2.6 FIRE PROTECTION
- 2.6.1 During the construction period provide fire protection. Provide at least one (1) U.L. listed multipurpose dry chemical fire extinguisher (2A20BC) rating on each floor. This requirement is in addition to the OWNER's present equipment.
- 2.5.2 Preparation of flammable compounds inside the building is prohibited.
- 2.5.3 Gasoline and other flammable and volatile fluids having low flash point and ignition temperatures shall not be stored or handled in the building except in U.L. listed safety cans. Reserve flammable liquids in barrels should be stored well away from the structure and kept under lock and key.
- 2.7 HOT WORK PROCEDURES: Hot work processes should be avoided to the greatest extent possible. Hot work includes any work where an ignition source is an element of the work process and includes but is not limited to welding, flame cutting, grinding, pipe sweating, soldering, etc. Where hot work is required by these specifications or cannot otherwise be avoided, these activities must be carefully controlled and supervised.
- 2.7.1 The CONSTRUCTOR shall designate a Hot Work Supervisor on the project site to be responsible for supervising and controlling hot work who is fully trained in hot work safety guidelines, including causes of fires, preventative measures, personal protective equipment, etc. Before hot work activities take place, the Hot Work Supervisor shall determine what actions must be taken to ensure that hot work is performed safely. This includes identifying hazards, implementing control measures, ensuring that a trained operator is performing work, and posting a fire watch. All personnel performing hot work must be fully trained in hot work safety guidelines, including causes of fires, preventative measures, personal protective equipment, etc. The recommendations of the Hot Work Supervisor must be documented and posted at each location of hot work. All incidences of hot work and precautions taken shall be documented in the CONSTRUCTOR daily reports.
- 2.7.2 Before proceeding with hot work, combustible materials within 35 feet of the work zone must be removed and any openings in walls floors or ducts that are within 35 feet of the work zone must be covered to eliminate travel passages for sparks, heat and flames. Where it is not possible to remove combustible materials, protect combustibles through the use of fire-resistant or fire-retardant barriers.
- 2.7.3 Hot work activities should only be conducted in areas free of flammable or combustible materials (liquids, vapors or dusts). Whenever possible welding and cutting operations should be carried out in permanent welding facilities designed to contain operations with noncombustible barriers and properly exhaust heat and fumes. Welding is not permitted



in or near closed tanks that contain or may have contained flammable liquids, unless they have been thoroughly drained, purged and tested to be free of flammable gases or vapors. Welding is not permitted on any closed containers.

- 2.7.4 Whenever hot work activities occur; the CONSTRUCTOR must provide a fully charged operating fire extinguisher in the hot work zone. Automatic sprinkler systems should be in service during hot work activities whenever possible. All fire detection and alarm system devices shall be covered as required to prevent unintended activation and false alarms.
- 2.7.5 The CONSTRUCTOR shall designate an individual responsible for providing a fire watch to supervise hot work activities and ensure safe handling of hot work equipment. The fire watch is responsible for monitoring the hot work area for fires and be prepared to take emergency action during hot work activities and for a minimum period of 30 minutes after work is completed.
- 2.8 HAZARDOUS CHEMICAL RISKS RIGHT TO KNOW LAW: All Work on the Project shall be in accordance with the Iowa Hazardous Chemical Risks Right to Know Law (Iowa Administrative Code 875, Chapter 110);
- 2.8.1 OWNER's Responsibility: The OWNER will provide the CONSTRUCTOR with a form entitled "Hazardous Chemicals Identification Form for CONSTRUCTOR" which lists known hazardous chemicals within the project site and appropriate protective measures to be taken by CONSTRUCTOR employees. The CONSTRUCTOR should sign and return to the OWNER. The CONSTRUCTOR shall inform his/her employees of the Iowa Hazardous Chemical Risks Right to Know Law.
- 2.8.2 CONSTRUCTOR's Responsibility: The CONSTRUCTOR shall provide a list of known hazardous chemicals that they anticipate will be used on the site as well as other pertinent information relating to employee protection. The form entitled "CONSTRUCTOR's Hazardous Chemicals Identification Form" will be provided electronically by the OWNER for reporting this information. The form should be completed and returned to the OWNER. A fully signed document will be made available to the CONSTRUCTOR. To comply with Iowa law, this information must be sent via registered mail by the CONSTRUCTOR to the local Fire Department. CONSTRUCTOR's Material Safety Data Sheets (MSDS) must be made available to the OWNER upon request.
- 2.8.3 The CONSTRUCTOR shall maintain on site a copy of all Material Safety Data Sheets (MSDS) for all products and materials used on the Project.
- 2.9 LAMP AND BALLAST DISPOSAL: Iowa State University conducts a program for the appropriate disposal and/or recycling of materials such as PCB fluorescent light fixture ballasts, fluorescent lamps, and HID lamps. When the Work includes the demolition or removal of such items, the CONSTRUCTOR shall contact the Owner's Representative and containers will be furnished for the CONSTRUCTOR's use in the collection and storage of these items. When the demolition or removal of these items is complete, the storage containers will be collected at a location designated on the project site by the OWNER.

### **ARTICLE 3 - USE OF SITE**

- 3.1 It is the intent of the OWNER to keep the construction area as inconspicuous as possible and the campus attractive and pleasant for the public, faculty, staff and students. The CONSTRUCTOR's understanding of this goal and cooperation in carrying it out is vital to the successful promotion and preservation of the university.
- 3.2 The CONSTRUCTOR shall limit his construction activities, including materials storage, to the areas shown on the drawings or otherwise designated by the Owner's Representative. CONSTRUCTOR

personnel may not enter or use buildings or facilities adjacent to the construction site. Where the project requires work within an existing building, CONSTRUCTOR personnel shall be limited to the construction area designated. The CONSTRUCTOR shall not interfere with the occupancy, use or access, both vehicular and pedestrian, of any areas or buildings adjacent to the designated work site. The CONSTRUCTOR shall maintain all facility exits and passageways in a continually usable condition and promptly inform the Owner's Representative on any activities that may interfere with exits or passageways.

- 3.3 The CONSTRUCTOR shall designate and maintain an area within the site for consumption of food or drink, other than drinking water, by construction personnel. Trash and food waste shall be disposed of properly and regularly. No food or drink, other than drinking water, will be allowed in finished areas of the building.
- 3.4 Use of smokeless tobacco will not be permitted inside a building.
- 3.5 SMOKE FREE CAMPUS: The entire university grounds and properties on the Iowa State University campus are designated as a Smoke-Free Campus. Smoking, including the use of electronic smoking devices, is prohibited in or on university facilities, grounds including outdoor areas. When entering the grounds of the university any smoking material shall be extinguished and disposed of in an appropriate receptacle at the perimeter of the grounds of the university. If the OWNER determines that constructor personnel are violating this policy, the OWNER may request that violators be reassigned from the project. The Smoke-Free Campus Policy is available for review at <http://www.policy.iastate.edu/policy/smoking>.

### 3.6 SITE MAINTENANCE

- 3.6.1 The CONSTRUCTOR shall maintain the site and adjacent premises in a clean, safe and orderly condition and in compliance with OSHA standards at all times. Where work is occurring in an existing facility, the CONSTRUCTOR is responsible for erecting and maintaining dust partitions and other barriers as required to keep dust and construction debris confined to the site. The CONSTRUCTOR shall keep the site and adjacent premises as free from materials, debris, rubbish, and trash as practical. Grass and weeds shall be kept cut and fence rows shall be trimmed. Stored materials shall be orderly and protected from damage. The CONSTRUCTOR shall provide waste receptacles on the project site at convenient locations for regular collection of construction debris/waste. Trash shall be disposed of regularly and not allowed to accumulate. Debris generated by demolition activity shall be removed from the job site on the same day it is generated. The CONSTRUCTOR shall dispose of all rubbish and debris off-campus in an approved landfill area. No building/construction material waste or unused materials shall be buried, dumped, burned or discharged on the site.
  - 3.6.2 The CONSTRUCTOR shall remove to the OWNER's satisfaction, all asphalt or concrete spilled on or around the buildings. Concrete and asphalt debris and similar debris shall be deposited off-campus or in areas on site designated for concrete truck washout and with controlled outlets.
  - 3.6.3 Where excavation activities result in excess top soil to be disposed of, this material shall be deposited on campus as directed by the Owner's Representative and leveled and shaped to match the surrounding terrain.
- 3.7 SITE STAGING PLAN: CONSTRUCTOR shall submit a site staging plan for approval by the OWNER and DESIGN PROFESSIONAL prior to beginning any work on site. The staging plan shall be prepared to scale and show construction fencing, signage, gate locations, barricades, hoists, chutes, dumpsters, jobsite office, storage trailers or areas, and all other items related to the use of the site.

- 3.8 EXISTING SITE FACILITIES AND CONDITIONS: The CONSTRUCTOR shall schedule a meeting with the Owner's Representative prior to beginning of work to review and document the existing conditions in each construction area. It is the CONSTRUCTOR's responsibility to identify and document any existing damage to the buildings and landscape within the project site. Any damage caused by the CONSTRUCTOR to existing facilities will be repaired at the cost of the CONSTRUCTOR.
- 3.9 VEHICLES AND PARKING
- 3.9.1 No parking of CONSTRUCTOR vehicles or the private vehicles of the CONSTRUCTOR's employees will be permitted in areas other than those shown on the drawings and approved by the Owner's Representative. Where the designated parking is not adequate to accommodate material and equipment deliveries to a project work site, deliveries may need to be scheduled outside of normal hours. Coordinate major equipment deliveries with the Owner's Representative assigned to the project.
- 3.9.2 All workmen requiring parking that cannot be accommodated on a construction site will have parking provided for in the southwest corner of the Iowa State Center parking lot. Transportation of workers from designated parking to and from the job site is the CONSTRUCTOR's responsibility. Shuttle bus service is available from the Iowa State Center parking lot to campus. The Iowa State Center lots may not be used for staging of construction material deliveries or truck parking without approval of the Owner's Representative.
- 3.9.3 CONSTRUCTOR's vehicles may not be driven into lawn areas without prior approval of the Owner's Representative. In those cases, where driving on lawn areas cannot be avoided, the CONSTRUCTOR shall provide planking material upon which to drive. Lawn areas outside of the designated construction area which are disturbed or damaged by construction activities will be repaired by the OWNER and paid for by the CONSTRUCTOR.
- 3.9.4 Vehicles parked on Iowa State University property are subject to all ISU Traffic and Parking Rules and Regulations. It is the CONSTRUCTOR's responsibility to inform the subcontractors of the parking policies and arrangements for the project and to enforce these policies. Vehicles illegally parked may be issued a citation and/or towed away and impounded. The CONSTRUCTOR is responsible for fines incurred by vehicles or workman associated with the project. Unpaid parking fines will be deducted from the contract amount if not promptly paid. Parking privileges may be withdrawn or denied to individuals or companies who consistently violate parking rules and regulations on campus. For additional information on Tickets / Citations, refer to the Iowa State University Parking Division at <http://www.parking.iastate.edu/ticket>.
- 3.9.5 Traffic is restricted by traffic control gates in some areas of campus (Osborn Drive, Farmhouse Lane, Morrill Road). Contractors should minimize congestion in these areas to the greatest extent possible by limiting traffic to and from project sites during class change times. Where the designated contractor parking is in areas of campus where traffic is restricted, the Owner's Representative will authorize the issuance of a limited number of gate cards to the CONSTRUCTOR. Final Completion of the Contract is contingent upon return of gate cards.
- 3.10 BUILDING KEYS AND ACCESS CARDS: The Owner's Representative will authorize issuance of keys/access cards to the CONSTRUCTOR. CONSTRUCTOR shall be responsible for the keys/access cards and must return them to Facilities Planning and Management at the end of the project. CONSTRUCTOR shall pay for any lost keys/access cards and rekeying or changing of locks, should the keys/access cards be lost by the CONSTRUCTOR. Rekeying or changing of locks when commenced will not be stopped in the process should the CONSTRUCTOR find the keys/access cards after notifying the OWNER that they are lost. Acceptance of contract is

contingent upon return of keys/access cards and/or payment for lost keys/access cards.

### 3.11 PROTECTION OF TREES

- 3.11.1 The CONSTRUCTOR shall be responsible for the protection of tops, trunks and root systems of existing trees and shrubs on the project site. Existing trees and shrubs subject to construction damage shall be protected to minimum of 8' above grade. Installation of protective structure shall be made before any work is started and not removed until directed by the Owner's Representative.
- 3.11.2 Do not permit heavy equipment or stockpiles within the branch spread. No ropes, wires, cables or other devices shall at any time be affixed to a tree or shrub so as to damage the bark, break branches, or destroy its natural shape.
- 3.11.3 The CONSTRUCTOR shall be liable in cases of accidental damage to trees and shrubs which are to remain on the site.
- 3.11.4 The CONSTRUCTOR shall notify the OWNER immediately in cases of accidental damage so that proper repairs can be made. Cost of such repairs will be assessed to the CONSTRUCTOR. The CONSTRUCTOR shall not attempt to make such repairs himself.
- 3.11.5 Evaluation of trees or shrubs damaged beyond repair shall be made on the basis of replacement cost, if replaceable, with material of equal size. In cases where it would not be possible to replace a tree with one of equal size, trees shall be evaluated on the basis of the "Shade Tree Evaluation" formula of the International Shade Tree Conference, current edition.
- 3.11.6 See Division 1 – General Requirements for additional requirements.

### 3.12 UTILITY LOCATES

- 3.12.1 Contractors completing any excavation work are required by law to notify Iowa One Call (800-292-8989 or 811) for locates of utilities at least 48 hours prior to ALL excavations (not including weekends and holidays). No excavation work can commence until after this 48-hour time-period commencing with the issuance of a locate request or dig number from Iowa One Call has transpired.

When contacting Iowa One Call, the CONSTRUCTOR shall provide the following project location information to the operator for every locate requested: Iowa State University, Project Name, closest street, intersection, or existing building, GPS coordinates, and/or other descriptions that clearly define the work site.

- 3.12.2 Prior to contacting Iowa One Call, the CONSTRUCTOR, subcontractor or sub-subcontractor shall white-line the proposed work sufficiently to allow the locator to easily identify the excavation area. White-lining shall be completed utilizing white paint and/or white flags.
- 3.12.3 See Section 00 74 13 Project Requirement for utilities that are known to have facilities on university property.
- 3.12.4 Marking of university operated utilities shall be accomplished by color-coding in accordance with the Uniform Color Code of the American Public Works Association. Locates shall be marked as follows:

<u>Utility</u>	<u>Flags</u>	<u>Bristle Line Marker</u>	<u>Ground Painting</u>
Electric	Red w/white letters	Red	Red dots
Telephone & Data (Fiber Optic)	Orange w/white lettering	Orange	Orange dots
Natural Gas	Yellow w/black lettering	Yellow	Yellow dots
Steam/Steam Tunnels/Condensate	Yellow w/blue lettering	Yellow	Yellow circle w/blue center
Domestic Water	Blue w/white lettering	Blue	Blue dots
Chilled Water	Blue w/red lettering	Blue	Blue circle w/red center
Sanitary Sewer	Green w/black lettering	Green	Black circle w/green center
Storm Sewer	Green w/white lettering	Green	White circle w/green center

3.12.5 The CONSTRUCTOR shall designate a single point of contact for the university locator on the project. The CONSTRUCTOR's point of contact is responsible for coordinating and prioritizing the locate requests with all activities on the site and assuring that the appropriate subcontractor or sub-subcontractor be available to work with the university locator. Requests for utility locates shall be sequenced in accordance with the work schedule to minimize the number of times each utility must be located.

3.12.6 Requests for utility locates shall be sequenced in accordance with the work schedule to minimize the number of times each utility must be located. The CONSTRUCTOR, subcontractor or sub-subcontractor shall preserve locate markings at all times during the work. If the markings will be destroyed or otherwise altered during the excavation, the CONSTRUCTOR, subcontractor or sub-subcontractor must establish suitable reference points which will enable locations of the underground facilities to be maintained at all times during the excavation.

3.12.7 The accuracy of the locates or tolerance zone shall be eighteen (18) inches on either side of the underground utility outside edge. Depth of buried lines varies and will not be marked. The CONSTRUCTOR, subcontractor or sub-subcontractor shall confirm and verify exact locations of utilities prior to commencing construction operations utilizing hand digging or pot-holing methods acceptable to the University or owner of the utility. The CONSTRUCTOR, subcontractor or sub-subcontractor shall be responsible for all construction in the area of existing utilities.

### 3.13 EXISTING UTILITIES AND STRUCTURES

3.13.1 The CONSTRUCTOR's attention is directed to the extensive network of existing underground pipelines, tunnels, manholes, and electric conduit in the area. It is the CONSTRUCTOR's responsibility to become acquainted with the extent and location of these underground structures and to protect them against damage from his operations. The CONSTRUCTOR shall exercise care to protect underground pipelines, tunnels, and duct banks from heavy vehicular traffic. Heavy wooden mats shall be used where required.

3.13.2 Existing utilities shall be adequately protected from damage due to construction activities by CONSTRUCTOR. The CONSTRUCTOR shall verify the exact locations of existing utilities before starting excavation or trench cutting operations. Excavation adjacent to underground structures shall be done with care. Where required, excavation shall be performed by hand digging around utilities to locate and prevent rupture or breaking of lines. Temporary support and maintenance of all underground utilities including shoring,

planking, support material, temporary fill or other protection as required for utilities to remain in continuous service shall be furnished by the CONSTRUCTOR. Where new excavation is below the support line of existing structures, sheeting or other approved procedures shall be utilized. Cost of repairing any damages to existing utilities shall be paid by the CONSTRUCTOR without expense to the university or other utility owners. The OWNER reserves the right to repair any existing utility damaged by the CONSTRUCTOR, at the CONSTRUCTOR's expense.

3.13.3 Existing utilities which are shown on the drawings or field located and are damaged by the CONSTRUCTOR shall be repaired or replaced, at the OWNER's sole option, entirely at the cost of the CONSTRUCTOR. The CONSTRUCTOR, subcontractor or sub-subcontractor shall not assume all utilities are shown on the drawings or in exact locations. Where damage necessitates a utility outage, CONSTRUCTOR shall work continuously on a 24-hour, around the clock basis until the damaged utility is placed into service again. All costs incurred as a result of damage to utilities are the responsibility of the CONSTRUCTOR.

3.13.4 If existing utilities are encountered during construction which are not shown on plans, and which have not been field located prior to encountering same, CONSTRUCTOR shall immediately stop work in that area and notify Owner's Representative. The Owner's Representative will make a determination as to nature of utility and direct the CONSTRUCTOR as to what action is to be taken.

3.13.5 No valve, switch or other control of the existing utility systems shall be operated for any purpose by the CONSTRUCTOR without prior approval of the Owner's Representative.

3.13.6 EXISTING SITE LIGHTING: The CONSTRUCTOR is advised to be aware of the pole mounted lighting systems on campus. This includes existing sidewalk, parking lot, or roadway lighting, either within or outside of the construction limits and served via cables crossing and/or power panels originating in the construction site. It is the CONSTRUCTOR's responsibility to assure all portions of the electrical service to and between the light poles operational, even in the event a pole is to be removed or relocated as part of the project scope of work. In the event that any portion of the lighting system fails to operate each night due to failure of the CONSTRUCTOR to take necessary precautions, a deductive change in the amount of \$500 will be issued for each occurrence.

### 3.14 OFF SITE STORAGE AREA

3.14.1 A limited amount of on-campus area outside of the work site may be made available to the CONSTRUCTOR remote to the project site for storage use. Use of the offsite storage areas must be approved by the Owner's Representative.

3.14.2 Materials must be stored in enclosed storage units or trailers suitable to protect materials from the elements or other damage. Any materials not stored within enclosures and which do not require protection from the elements must be neatly stacked and/or otherwise maintained in an orderly manner. All storage trailers must have a valid registration and license plates at all times, be maintained in a condition suitable for travel over public roadways, and be identified by CONSTRUCTOR name and project with waterproof signage.

3.14.3 The CONSTRUCTOR is responsible for security of all stored materials as required to protect against theft or vandalism.

3.14.4 The area available for storage used by the CONSTRUCTOR is limited to the area designated by the Owner's Representative. The CONSTRUCTOR is responsible for marking the boundaries of the storage area designated for the project in a manner acceptable to the Owner's Representative. Trailers or storage units must be aligned and

located as approved; be maintained in a neat and orderly manner at all times. The CONSTRUCTOR will be responsible for mowing weeds within the designated storage area.

3.14.5 The CONSTRUCTOR and Owner's Representative shall jointly review the condition of the storage area at the time of each monthly pay request meeting. The OWNER reserves the right to withhold payment until deficiencies in the storage area are remedied.

3.14.6 Access roads to and through the storage area must be maintained in a condition that will adequately support the required vehicle loads and such that dirt and debris will not be tracked onto adjacent roadways. The CONSTRUCTOR is responsible for removal of any dirt or debris accumulations from roads and streets that are the result of the CONSTRUCTOR's use of the storage area.

3.14.7 The CONSTRUCTOR shall keep the storage area and adjacent premises as free from materials, debris, rubbish, and trash as practical. The storage area shall not be used for storage of construction debris, earthwork materials, etc.

3.14.8 The storage area may not be utilized for daily parking of vehicles for construction personnel. Storage of construction equipment will not be allowed unless specifically approved by the Owner's Representative. Under no circumstances shall the construction storage area be utilized for vehicle maintenance activities.

3.14.9 The project will not be accepted and final payment made until the storage site has been restored to the satisfaction of the Owner's Representative.

### 3.15 SITE SIGNAGE

3.15.1 The OWNER will furnish project identification signs. No other CONSTRUCTOR identification signs will be permitted without approval by the OWNER.

3.15.2 Prepare other signs as required to provide information, direction and assistance related to the project site to construction personnel, pedestrians, and visitors. Signs shall be sized appropriately and installed where required. The CONSTRUCTOR is responsible for furnishing warning signs, barricades and lights as required. An experienced sign painter must prepare all signs.

### 3.16 USE OF ELEVATOR

3.16.1 The CONSTRUCTOR shall provide and install protective padding to inside perimeter walls and use care in moving materials and equipment through the doors.

3.16.2 The CONSTRUCTOR shall not load elevator over the rated name plate capacity nor exceed the per square-inch floor loading design. Any damage to elevator surfaces or mechanism will be repaired by the OWNER and shall be paid for by the CONSTRUCTOR.

3.16.3 The CONSTRUCTOR shall utilize only the elevator designated by the Owner's Representative and shall not assume that all elevators are for use.

3.16.4 Where a new building is being constructed, the CONSTRUCTOR shall utilize the elevator at the CONSTRUCTOR's risk. The CONSTRUCTOR shall extend the OWNER's basic warranty for the duration of the construction contract and shall return the unit to the OWNER's use in an as-new condition.

3.17 FIRE ALARM SYSTEMS: Whenever construction activities are taking place in buildings with active fire alarm and fire sprinkler systems, the CONSTRUCTOR is advised to be aware of existing fire protection devices within and adjacent to the work area. It is the CONSTRUCTOR's responsibility

to cover and protect all devices as required to prevent unintended activation and false alarms. In the event that a device is activated due to failure of the CONSTRUCTOR to take necessary precautions, a deductive change in the amount of \$500 will be issued for each occurrence.

#### **ARTICLE 4 - SUBMITTALS**

- 4.1 The DESIGN PROFESSIONAL will prepare a list of required shop drawings/product data/sample submittals and provide it to the CONSTRUCTOR with a copy to the OWNER. The CONSTRUCTOR shall review the list provided, recommend any changes to the content or packaging of the submittals and indicate the anticipated submittal date and required approval date for each required submittal.
- 4.2 The CONSTRUCTOR shall schedule submittal of Shop Drawings and Product Data to the DESIGN PROFESSIONAL so that no delays will result in delivery of materials and equipment, advising the DESIGN PROFESSIONAL of priority for checking of Shop Drawings and Product Data. The submittal schedule must allow for the not less than fifteen (15) working days submittal turnaround time and be incorporated into the project construction schedule as indicated in Article 5. All required submittals shall be submitted for review no later than 60 days after the award of the Contract or sooner if required to meet project schedule requirements. No payment will be allowed for stored or installed materials that do not have an approved submittal.
- 4.3 The CONSTRUCTOR shall review each submittal for compliance with the Contract Documents. After review, the CONSTRUCTOR shall approve and forward shop drawings/product data/sample submittals to the DESIGN PROFESSIONAL via the project web site.
- 4.4 All shop drawings/product data shall be electronic format shop drawings/product data transmitted via the project web site. In the event the format of the shop drawings/product data is not suitable for electronic format and processing, the shop drawings/product data shall be entered into the project web site log and transmitted to the DESIGN PROFESSIONAL under separate cover.
- 4.5 After review, the DESIGN PROFESSIONAL shall process the shop drawings/product data/sample submittals to the OWNER and CONSTRUCTOR via the project web site. Submittals will be assigned a status as follows:
- No Exceptions Taken
  - Make Corrections Noted
  - Revise and Resubmit
  - Rejected
- 4.6 Samples: The CONSTRUCTOR shall submit a minimum of three (3) samples to the DESIGN PROFESSIONAL. The record of the transmittal shall be entered into the project web site log and the samples transmitted to the DESIGN PROFESSIONAL under separate cover. The DESIGN PROFESSIONAL shall review and, if approved, one (1) sample will be returned to the CONSTRUCTOR and one (1) sample will be retained by the DESIGN PROFESSIONAL. The CONSTRUCTOR shall maintain a secure and weather tight sample storage area on site for storage of the approved samples where they are readily available to the OWNER and DESIGN PROFESSIONAL.
- 4.7 The following submittals listed below require OWNER review. The review of these submittals and incorporation of OWNER comments will be coordinated by the DESIGN PROFESSIONAL. The CONSTRUCTOR shall allow an additional five (5) working days turnaround time for these submittals.
- a. Division 7 - Roofing
  - b. Division 8 - Door Hardware
  - c. Division 8 - Doors and Frames



- d. Division 14 - Elevator Equipment
- e. Division 21 - Fire Protection and Sprinkler Shop Drawings
- f. Division 26 - Primary Electric Service Equipment
- g. Division 28 - Fire Alarm and Communication Systems
- h. Division 33 - Underground Service Entrance Piping

4.8 The DESIGN PROFESSIONAL and CONSTRUCTOR shall provide the OWNER with a submittal status update at each construction progress meeting.

#### **ARTICLE 5 - TIME**

5.1 CONSTRUCTOR'S SCHEDULE OF THE WORK: The CONSTRUCTOR shall prepare and submit a Construction Schedule for the Work to the OWNER and DESIGN PROFESSIONAL for review promptly after being awarded the Contract and before the first application for payment is submitted. The construction schedule for the Work shall set forth interim dates for completion of various components of the Work and all Contract and Work Milestone Dates as defined herein. The schedule shall not exceed time limits established in the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work, and shall provide for expeditious and practicable execution of the Work. The CONSTRUCTOR shall conform to the most recent schedule

5.2 The construction schedule shall be provided in a detailed format as required in Section 00 74 13 Project Requirements and include separate divisions for each major portion of the Work or operation for the purpose of scheduling, coordinating and monitoring work under this contract (including all activities of subcontractors, equipment vendors and suppliers). The construction schedule shall include and properly coordinate dates for performance of all divisions of the work, including completion of off-site requirements and tasks, so that the work can be completed in a timely and orderly fashion consistent with the required substantial completion date, completion date, and other milestone dates included in the Contract Documents. The estimated start date, duration time, and finish date and the actual start date, duration time, and finish date shall be indicated for each item defined in the schedule of values. Interdependent activities shall be shown suitably linked to indicate proper sequencing. The maximum durations of individual tasks should be appropriate for effectively sequencing, coordinating, and monitoring the work but in no case shall the duration of an individual task exceed 30 days.

5.3 The Construction Schedule shall include the following at a minimum:

- (a) Notice of Award Date, Notice to Proceed Date if applicable, Substantial Completion Date, and Final Completion Date for the project and all other milestone dates specified herein.
- (b) Anticipated submittal dates for all Shop Drawings, Product Data and Samples allowing sufficient time for review of required submittals.
- (c) Fabrication and lead times for major equipment and materials and items with long lead times.
- (d) Date that construction will begin on site.
- (e) Proposed start date, duration time, and finish date of each item defined in the schedule of values.
- (f) Required decision dates.
- (g) Required delivery dates for OWNER furnished equipment and activities.
- (h) Time restraints imposed by the OWNER that affect progress.
- (i) Acceptance testing required inspections and punch list dates.

5.4 The CONSTRUCTOR shall monitor the progress of the Work for conformance with the requirements of the schedule and shall promptly advise the OWNER in writing of any delays or potential delays. The CONSTRUCTOR shall update the Construction Schedule not less frequently than monthly and make all necessary corrections to bring it into conformance with actual site progress and conditions and coordinate with the submittal schedule, progress reports, payment

requests and other schedules. The initial schedule shall be maintained as a baseline reference throughout the project.

- 5.5 The initial schedule and subsequent updates shall be published to the OWNER's web site in a format that allows the schedule to be legibly printed in color on a sheet, or series of sheets, of sufficient width to show data for the entire construction period. The CONSTRUCTOR shall distribute printed copies of the schedule to the OWNER, DESIGN PROFESSIONAL, and all subcontractors at the monthly progress meeting.
- 5.6 If the Owner's Representative or DESIGN PROFESSIONAL has a reasonable objection to the schedule submitted by CONSTRUCTOR, the construction schedule shall be promptly revised by the CONSTRUCTOR.
- 5.7 In the event the CONSTRUCTOR fails to maintain the schedule, including accepted revisions, the CONSTRUCTOR shall promptly, at no additional cost to the OWNER, take measures to increase work forces, increase work hours, initiate revisions to means and methods of construction, and/or other similar measures as required to make up lost time and complete the Work in accordance with the construction schedule. Such measures shall continue until the progress of the Work complies with the stage of completion required by the Contract Documents.
- 5.8 When the Work is divided between two or more contractors, the construction schedule shall be prepared and subsequently reviewed and corrected by the cooperative effort of the contractors. The CONSTRUCTOR shall participate with other contractors in reviewing their construction schedules. The CONSTRUCTOR shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement.
- 5.9 See Division 1 - General Requirements for additional requirements.

## **ARTICLE 6 – PAYMENT**

### **6.1 SCHEDULE OF VALUES**

- 6.1.1 Within twenty-one (21) Days from the date of Notice of Award and before the first payment is made, the CONSTRUCTOR shall prepare and submit a Schedule of Values for OWNER and DESIGN PROFESSIONAL approval via the OWNER's electronic payment application system.
- 6.1.2 The Schedule of Values shall include both labor and material dollar values for each element of work as applicable. Material values shall include only anticipated bare costs of materials for the project. Labor values shall include the labor portion of each item and all other costs not considered to be material bare costs. Markup for overhead or profit shall be distributed as appropriate to each item in the Schedule of Values and included in the labor value. The sum of all itemized values in the Schedule of Values must be equal to the Contract Sum.
- 6.1.3 The Schedule of Values shall include the following items at a minimum:
  - (a) 00 61 13 Performance and Payment Bond Form
  - (b) 01 31 13 Project Management and Coordination
  - (c) 01 52 00 Construction Facilities
  - (d) 01 71 13 Mobilization
  - (e) 01 77 19 Closeout Requirements
  - (f) Allowances (include a line item and value for each allowance or unit price item included in the Contract in the section where the work is specified.)
  - (g) A line item and value shall be included for all applicable specification subdivisions shown in the Table of Contents of the Project Specifications.
  - (h) The Schedule of Values should be further itemized by area, floor, system, etc. as

required to allow for an accurate evaluation of work progress.

- 6.1.4 The Schedule of Values must be approved by the DESIGN PROFESSIONAL and OWNER prior to the submittal of the first pay request. The approved Schedule of Values will be the basis of monthly pay requests.

## 6.2 APPLICATIONS FOR PAYMENT

- 6.2.1 The CONSTRUCTOR shall submit to the OWNER and the DESIGN PROFESSIONAL a monthly application for payment utilizing the OWNER's electronic payment application system. The monthly due date for the submission of the application for payment will be established at the preconstruction meeting. This will be the only time during the course of a month that the CONSTRUCTOR will have the opportunity to make a request for payment.
- 6.2.2 Prior to requesting payment, the CONSTRUCTOR shall confirm that an updated schedule has been published to the project website, the project record drawings have been updated to reflect work to date, CONSTRUCTOR Daily Reports are current and published to the project website, the SWPPP has been updated to reflect changing site conditions and any other performance issues have been addressed as required by the Contract Documents.
- 6.2.3 The CONSTRUCTOR may request payment on monthly pay application for work completed on Change Requests that have been approved by the OWNER. All Change Requests will be included on a Contract Change Order prior to Final Acceptance.
- 6.2.4 The CONSTRUCTOR shall include electronic copies of priced invoices with the submission of the application for payment for all material included in Stored Materials. No payment will be made for materials stored off site unless 1) the storage facilities have been previously approved by the OWNER, and 2) the CONSTRUCTOR has provided an insurance certificate listing ISU as loss payee and written statement giving ISU ownership without possession or control of the item(s). Offsite storage approval will not be granted during the course of a Pay Request meeting. Approval must occur prior to the Pay Request meeting.
- 6.2.5 The DESIGN PROFESSIONAL, OWNER and CONSTRUCTOR will meet at the project site at least three (3) days prior to the monthly construction meeting for a Pay Request Meeting. The meeting will be at the project site and all parties must be present. The DESIGN PROFESSIONAL, OWNER and CONSTRUCTOR will use the Pay Request Meeting to review the submitted application for payment and agree on the appropriate percentage of completion for each line item listed in the Schedule of Values. The meeting will not conclude until all issues on items for payment have been resolved.
- 6.2.6 After the Pay Request Meeting, the application for payment shall be revised to reflect any agreed upon revisions to the percentage of completion for each line item listed in the Schedule of Values. The final version of the Pay Request will be certified by the DESIGN PROFESSIONAL, and approved by the Owner's Representative.
- 6.2.7 Payments will be processed not more than once a month. It will take approximately 10 working days from the date of approval for the OWNER to process the payment to the CONSTRUCTOR.

## **ARTICLE 7 - MISCELLANEOUS**

- 7.1 PERMITS, FEES AND NOTICES All construction under this contract shall conform to the requirements of the Iowa State Building Code. The provisions of the Iowa State Building Code will be strictly adhered to and will take precedence over local governmental bodies' regulations. Work not regulated by the Iowa State Building Code shall be performed in accordance with other applicable local regulations

7.2 COPIES OF PROJECT MANUAL AND DRAWINGS A reasonable number of additional copies of the drawings and project manual will be made available to the CONSTRUCTOR upon request and without cost for 30 days after Notice of Award. Additional copies of the Project Manual and Drawings may be provided to the CONSTRUCTOR if required with cost of reproduction and handling to be paid by the CONSTRUCTOR.

### 7.3 Construction Conferences and Meetings

7.3.1 After the award and prior to the start of construction, the OWNER will schedule a preconstruction meeting to discuss requirements in the performance of the Contract. The CONSTRUCTOR shall be represented at this meeting by a Principal, the Project Manager, designated Safety Representative and the Project Superintendent.

7.3.2 A Construction Project Meeting will be scheduled by the OWNER at least once a month and will be held in the General Services Building at Iowa State University or at another location acceptable to the OWNER. The CONSTRUCTOR must be represented at these meetings by a Principal or Project Manager, and the Project Superintendent and shall require attendance by all major subcontractors and other personnel and/or subcontractors whose expertise or responsibilities are pertinent to the agenda of the meeting. The CONSTRUCTOR shall publish an updated construction schedule to the project web site not less than two working days prior to the meeting and distribute printed copies of the updated construction schedule at each meeting.

7.3.3 The DESIGN PROFESSIONAL will attend all construction progress meetings and shall keep, prepare, and publish meeting minutes to the project web site.

### 7.4 ELECTRONIC PROJECT COMMUNICATIONS

7.4.1 All parties are required to acquire and/or maintain at its own expense throughout the Project, the following hardware, software, services and other electronic processes and versions, including payment for all royalty or license fees for their use, necessary to effectively and reliably transmit and receive Project-related Electronic Communications:

#### Minimum System and Software Requirements:

- (a) Operating Systems: Windows XP, Windows 7
- (b) Minimum 1 GB RAM
- (c) Processor: PC Compatible, 1.6 GHz i3 core processor or better
- (d) Minimum 70 MB free hard disk space for application
- (e) Minimum 150 MB of temporary free hard disk space used during installation
- (f) Video Card and display capable of True Color (24-bit) with at least 512 MB memory
- (g) Internet connection (high speed 10 Mbps or higher required)
- (h) Internet Explorer 8.0, 9.0 (32-bit only), or 10.0
- (i) Scanner
- (j) Printer

File formats: The following general and native application specific file formats are permitted. Each Party shall maintain hardware and software as required to read each of these formats and to produce the formats for the types of documents they are responsible for creating or revising.

- |          |                                       |
|----------|---------------------------------------|
| (a) PDF, | Portable Document Format              |
| (b) RTF, | Rich Text Format                      |
| (c) GIF, | CompuServe Graphic Interchange Format |
| (d) JPG, | JPEG, or JIFF compliant format        |
| (e) TIF, | Tagged Image File Format              |

- (f) DWG, Autodesk or Open Design Alliance (free viewers available)
- (g) Microsoft Word (Recommended)
- (h) Microsoft Excel (Recommended)
- (i) Microsoft PowerPoint (Recommended)
- (j) MSG, Microsoft Outlook (Recommended)
- (k) Autodesk Rivot
- (l) Autodesk Navisworks
- (m) Video Files

Applications: The parties shall use Bluebeam Revu and Bluebeam Vu for interactive document reviews.

7.4.2 PROJECT COMMUNICATION AND MANAGEMENT SYSTEM: An Internet based project communication and management system (project web site) will be utilized on this project to share information among team members and conduct and track project communications. The CONSTRUCTOR is required to participate with the project team and use the system for viewing correspondence and information posted by other project team members, posting correspondence and information for viewing by other project team members, and logging and/or responding to such as Change Requests, RFI's and Shop Drawings. There are no fees required for access to the system. The CONSTRUCTOR shall provide required user information to the OWNER after award of contract. Security levels, access to information, and authorization are controlled by the OWNER. Iowa State University will provide project team members with password protected access privileges to the project web site.

7.4.3 ELECTRONIC PAYMENT APPLICATION SYSTEM: The pay application process will be conducted utilizing an online application to manage and transmit payment applications from the CONSTRUCTOR to the DESIGN PROFESSIONAL for certification and to the OWNER for approval. Access to the internet and a standard email account are required. The electronic payment application system is accessed on the internet. All supporting documentation relating to payment application requests such as pictures, photocopies of priced invoices for all material included in Stored Materials on the pay application, and any other required documents shall be uploaded and included with each pay application. CONSTRUCTOR shall provide required user information to the OWNER after award of contract. Security levels, access to information, and authorization are controlled by the OWNER. Digital signatures track action steps taken by individual Users. Iowa State University will provide project team members with password protected access to the pay application system.

7.4.4 FIELD OFFICE INTERNET SERVICE: The CONSTRUCTOR shall maintain, and pay for internet service to the field office at the time of mobilization. Service shall be maintained until substantial completion or longer if necessary. CONSTRUCTOR shall provide, install, and remove any cables required from the construction field office to the connection point of service. At least one computer with monitor, printer and internet access, email service, etc. shall be maintained in the field office. Internet access and data service may be made available from the Iowa State University network upon request and approval. All devices that connect to the Iowa State University network need to be registered before they will be allowed to connect.

7.4.5 ACCESS THE ISU NETWORK AND WIRELESS ACCESS ON CAMPUS: Access to the Iowa State University network may be authorized by the Owners Representative upon submittal of MAC addresses as required to allow devices to be sponsored and registered appropriately. The CONSTRUCTOR agrees be accountable for using these resources in a secure, ethical and respectful manner and follow all policies and procedures as outlined in the Iowa State University policy for Acceptable Use of Information Technology Resources available at: <http://policy.iastate.edu/ITacceptableuse>. The Constructor is responsible for the security of their computers or other network devices and is subject to the provisions of the Information Technology Security Policy available at

<http://policy.iastate.edu/policy/it/security>. The university may disable service to an individual or a computing device, when it has been determined that a violation of this code or an apparent misuse of university computing facilities or networks has occurred.

7.5 CONSTRUCTOR DAILY REPORTS The CONSTRUCTOR's Superintendent shall maintain a daily report of the construction progress. The report shall include detailed information such as high and low temperature and general weather conditions, temperature recordings, accidents and unusual events, meetings and significant decisions, unforeseen site conditions, subcontractors on site, number of workers by trade, items of work being accomplished, possible delay impacts (whether caused by the OWNER, CONSTRUCTOR, DESIGN PROFESSIONAL, or others), material deliveries, deficiencies noted, corrective work performed, visitors to the job site and any other information relevant to the project. Attach copies of subcontractor daily reports as necessary. Copies of any special testing reports, special inspection reports, or concrete batch tickets shall be attached. The CONSTRUCTOR's daily reports shall be published to the project web site not less than weekly. Payment may be withheld for incomplete, inaccurate reports or for failure to submit reports as required above.

## 7.6 PROJECT CLOSEOUT AND WARRANTY WORK

### 7.6.1 ASBESTOS/PCB CERTIFICATION:

7.6.1.1 Materials and products required for the Work shall not contain asbestos, polychlorinated biphenyls (PCB) or other hazardous materials identified by the OWNER. After completion of installation, but prior to Substantial Completion, CONSTRUCTOR shall certify in writing that products and materials installed, and processes used, do not contain asbestos or polychlorinated biphenyls (PCB). In the event a product or material is not available that does not contain asbestos, PCB or hazardous materials, a Materials Safety Data Sheet (MSDS) equivalent to OSHA Form 20 shall be submitted to the OWNER for evaluation of the proposed product or material. This must be completed prior to installation of any asbestos, PCB or OWNER-identified hazardous materials.

### 7.6.2 PROJECT RECORD DOCUMENTS

7.6.2.1 The CONSTRUCTOR shall maintain one record copy of the DRAWINGS, SPECIFICATIONS, Addenda, Change Orders and other Modifications at the site, in good order and marked currently on a daily basis to record changes and selections made during construction, along with a copy of any approved Shop Drawings, Product Data, Samples and similar required submittals not readily available on the project web site. These shall be available to the OWNER and shall be delivered to the OWNER upon completion of the Work.

7.6.2.2 The Record Documents shall be marked to precisely show the location of all buried or concealed work and equipment. For underground utility installations, the CONSTRUCTOR shall document on the Record Documents the location and invert elevations of encountered utilities and every 50 feet of new utility installations. Measurements shall be taken in plan from permanent structures such as exterior building walls. Copies of record documents for all underground utility installations shall be provided to the OWNER immediately after completion of this work. The OWNER may withhold payment for this work until these record documents are provided.

7.6.2.3 Prior to Acceptance of the Work, the CONSTRUCTOR shall submit certified Record Documents to the OWNER and DESIGN PROFESSIONAL for review. Any changes, corrections, or additions noted during this review shall be made promptly and the corrected Record Documents shall be delivered to the OWNER.

### 7.6.3 OPERATION AND MAINTENANCE MANUALS (ELECTRONIC FORMAT)

7.6.3.1 The CONSTRUCTOR shall provide Operation and Maintenance Manuals for all equipment and materials furnished on the project as follows:

- a. One hard copy of the manufacturer's standard maintenance and operating instructions for each piece of equipment shall be provided to the Owner's Construction Manager when the equipment is delivered to the project site.
- b. The complete electronic format Operation and Maintenance Manuals shall be submitted for review by the OWNER and DESIGN PROFESSIONAL prior to submission of a pay application requesting payment of 75 percent of the contract value or more. Payments greater than 75 percent of the contract amount may be withheld until the Operation and Maintenance Manuals are submitted. The Operation and Maintenance Manuals must be provided before the project will be considered substantially complete.
- c. After review by the OWNER and DESIGN PROFESSIONAL, the Operation and Maintenance Manuals shall be revised to incorporate any review comments received on the initial copy. The final copy must be approved by the OWNER and DESIGN PROFESSIONAL prior to Final Completion.
- d. A separate hard copy volume titled "Warranties" with original properly executed warranty documents for all equipment and materials, for which warranties are required, shall be provided. The warranty volume must be provided prior to final acceptance.

7.6.3.2 Maintenance manuals shall include full maintenance and operating instructions, warranty information, parts lists, wiring diagrams, recommended spare parts and emergency parts inventory, sources of purchase and similar information compiled in Portable Document Format (PDF) as single electronic systems with suitable hyperlinks to all associated files and documents for easy retrieval and use.

7.6.3.3. The Warranties Volume must be organized based on the Table of Contents in the Project Manual and bound into a heavy duty three ring binder (maximum size 3"). Page size should be 8.5" x 11". A copy of the "Warranty" volume shall be published to the project web site in PDF format.

7.6.3.4 The Operation and Maintenance Manuals are to be organized in PDF format as single electronic systems with suitable hyperlinks to all associated files and documents for easy retrieval and use.

- a. The manual shall be created from the native electronic files using the latest available release of Adobe Acrobat or Bluebeam Revu. If native electronic files are not available and conversion to electronic format via scanning of printed material is necessary, documents must be electronically converted using Optical Character Recognition (OCR) to enable PDF search capabilities.
- b. Each PDF file shall allow access to the electronic information from the main index screen. This index screen shall be organized based on the Table of Contents in the Project Manual and shall have Bookmarks to all corresponding pages.
- c. Each item listed in the Table of Contents shall hyperlink to the corresponding sub-section, drawing, figure, or table.

7.6.3.5 See Division 1 – General Requirements for additional requirements.

#### 7.6.4 DEMONSTRATION AND TRAINING:

7.6.4.1 The CONSTRUCTOR shall instruct persons designated by the Owner's Representative in the proper use, operation, and maintenance of all new equipment, and shall provide instructions to Owner's Representative in a written format before final acceptance.

7.6.4.2 See Division 1 – General Requirements for additional requirements.

#### 7.6.5 FINAL CLEANING: After all construction activities are complete, the project shall be thoroughly cleaned to a condition suitable for occupancy. The CONSTRUCTOR shall employ experienced workers or professional cleaners for final cleaning of work areas. Cleaning materials utilized shall be appropriate and in accordance with manufacturer's instructions for the surfaces and materials being cleaned. Final cleaning includes, but is not limited to, the following:

7.6.5.1 Clean project site. Remove all rubbish, litter, and waste materials from the site. Sweep, power wash, and remove stains from all paved areas. Restore any areas disturbed by construction to the pre-construction condition.

7.6.5.2 Thoroughly clean all interior and exterior surfaces, equipment, fixtures, and systems to a dirt-free condition, removing all foreign paint, grease, oil, dirt, stains and other foreign material. Polish glass surfaces taking care not to scratch surfaces. Sweep concrete floors broom clean in unoccupied areas. Remove all labels that are not permanent.

7.6.5.3 Wipe surfaces of mechanical and electrical equipment. Remove excess lubrication and other substances. Clean plumbing equipment and fixtures to a sanitary condition.

7.6.5.4 Vacuum all carpet surfaces and shampoo carpet as necessary to remove stains.

7.6.5.5 Remove dirt and debris from chases and limited access spaces, including plenums, shafts, trenches, attics, vaults, and similar spaces. Clean debris from roofs, gutters, downspouts, and drainage systems.

7.6.5.6 All equipment utilized during the construction period must be restored to "like-new" condition.

7.6.5.7 See Division 1 – General Requirements for additional requirements.

#### 7.6.6 WARRANTY WORK

7.6.6.1 Reference General Conditions Article 3, Paragraph 3.5; General Conditions Article 12, Paragraph 12.2; and, Division 1 – General Requirements.

7.6.6.2 The CONSTRUCTOR will be notified when work is required that is covered by the project warranty. The CONSTRUCTOR shall proceed promptly to take action as required. Work schedule and access shall be coordinated with the Owner's Representative. The CONSTRUCTOR shall notify the Owner's Representative in writing when the work has been completed.

7.6.6.3 Post-Occupancy Inspection: The DESIGN PROFESSIONAL will accompany the Owner's Representative or their authorized representatives on a post-occupancy and warranty review prior to the expiration of the warranty period. Any items requiring correction under the project warranty will be transmitted to the



CONSTRUCTOR for action.

7.7 SUSTAINABLE CONSTRUCTION PRACTICES: The Owner is committed to environmental stewardship and sustainable design and construction practices for all construction projects. The following minimum requirements shall be implemented on all projects:

7.7.1 CONSTRUCTION WASTE RECYCLING: The CONSTRUCTOR is encouraged to salvage, reuse, or sell as much of the demolition and construction waste materials as possible. A goal to divert not less than 75% of demolition and construction waste materials from the landfill should be established. The CONSTRUCTOR shall conduct his debris disposal operation, both transportation and displacement of, in a manner acceptable to the OWNER and in strict compliance with applicable government regulations.

7.7.2 ENERGY CONSERVATION: The CONSTRUCTOR shall take all reasonable measures to conserve energy during the construction period to conserve resources and minimize demand on the OWNER's utility systems. If excessive or wasteful use of energy or water is observed, the associated costs will be billed to the CONSTRUCTOR.

7.7.2.1 Any openings in exterior walls must be sealed, and insulated to the extent that heat or cooling will be retained within the structure whenever the space is being heated or cooled. Provide doors with self-closing hardware and locks. Temporary weather tight enclosure shall be equivalent to at least 75 percent of the R-value and air infiltration of the permanent exterior wall assembly detailed for the Project. Weather-tight enclosures shall provide continuous separation from exterior elements. No holes or openings in temporary weather-tight enclosure shall be allowed.

7.7.2.2 When fan and duct systems are used, they shall be used only to extent necessary to maintain 50 degrees temperature unless higher temperatures are specifically required for a construction operation or process and the higher temperature is approved by the OWNER.

7.7.3 WATER CONSERVATION: The CONSTRUCTOR shall take all reasonable measures to conserve water during the construction period to conserve resources and minimize demand on the OWNER's utility systems. Water use that results in ponding or flows into ditches, roadways, gutters, storm inlets, or surface drains should be avoided. If excessive or wasteful use of energy or water is observed, the associated costs will be billed to the CONSTRUCTOR.

7.7.4 CONSTRUCTION INDOOR AIR QUALITY MANAGEMENT: For new construction or construction in existing buildings, comply with SMACNA IAQ Guideline for Occupied Buildings under Construction, Second Edition 2007. ANSI/SMACNA 008-2008 (Chapter 3).

7.7.4.1 Use and Protection of Permanent HVAC Equipment: OWNER's approval is required prior to use of permanent HVAC Equipment, Permanent fan systems will be permitted to be used when it is impossible or impractical to install other systems, when the use of such systems will not be damaged by cold or other causes, and provided the systems are protected by filters and cleaned in accordance with the requirements below. The CONSTRUCTOR shall clean all units and devices (including vacuuming of insides of units), adjust all equipment and controls and repair or replace damaged units or equipment, and install new permanent filters prior to occupancy and Substantial Completion.

7.7.4.2 Temporary filters with a minimum rating of MERV 8 shall be installed and maintained during the construction period so that new or existing ductwork, equipment, and systems are protected from accumulation of dirt or dust resulting from construction activities.

#### 7.7.5 MOISTURE PROTECTION

7.7.5.1 All accumulations of water or moisture from any source which are located in the building during storage and/or installation of interior components, including standing water of floors and decks, shall be immediately and completely removed. Keep deck openings covered or dammed. Remove all materials which become saturated or with visible signs of mold promptly from the site. Avoid trapping water in finished work.

7.7.5.2 Store materials as indicated and per manufacturer's written recommendations. Protect stored and installed material from flowing or standing water. Protect all stored on-site or installed absorptive materials from moisture accumulation or damage by covering with plastic or other suitable material. Inspect as necessary to ensure adequate protection. Do not install material that is wet. Immediately remove and replace water-damaged materials or materials showing the presence of mold.

7.7.6 CONSTRUCTION STORM WATER MANAGEMENT: Prevent the loss of soil & sedimentation of storm sewer during construction by conforming to the erosion and sedimentation requirements of the Clean Water Act, National Pollution Discharge Elimination System, General Permit No. 2 and Iowa State University MS4 permit. The CONSTRUCTOR shall take appropriate measures to control run-off from the site during and following construction including but not limited to the following:

7.7.6.1 Access roads to and through the site must be maintained such that dirt and debris will not be tracked onto adjacent roadways. The CONSTRUCTOR is responsible for removal of any dirt or debris accumulations from roads and streets adjacent to the site daily. Construction entrances adjacent to public/private roads shall be graveled immediately to prevent vehicle tracking. The CONSTRUCTOR shall promptly remove site material tracked onto adjacent streets/property.

7.7.6.2 Installation and maintenance of all temporary and permanent erosion control measures is the responsibility of the CONSTRUCTOR. Cleaning of silt control devices shall begin when they have lost 50% of their capacity. All storm water inlets both inside and adjacent to the site must be adequately protected with silt fence, rip-rap, compost socks, straw bales, sediment traps, or other approved methods. Dust control measures shall be implemented as required on the site during dry conditions. Any runoff from the project site, including discharge from dewatering activities, must be filtered.

7.7.6.3 Provide designated areas for concrete truck washouts that have controlled outlets. The area must be clearly signed as "Concrete Washout" and maintained as needed. All concrete washout material must be removed prior to completion of construction. No disposal of concrete waste is allowed on campus other than areas designated by the CONSTRUCTOR within the construction site.

7.7.6.4 Slurry from concrete saw cutting shall not be discharged into storm water intakes, sanitary sewer intakes or floor drains. All intakes shall be protected prior to any/all street concrete cutting with an appropriate intake protection and maintained daily. The use of an absorbent polymer product to absorb slurry solids produced by cutting, coring and finishing processes is recommended.

Product options include “Eco-Max Gel” by Gel Maxx USA and “slurry Slayer” by “Substrate Technology, Inc.”, or equivalent.

- 7.7.6.5 All on site fuel storage shall be in double walled fuel cells and protected from vandalism.
- 7.7.6.6 Locate temporary toilets on flat stable ground as far from storm drains as possible. Provide secondary containment if the proximity of storm drains presents a risk in the event of a leak or spill. Temporary toilets shall be secured such that they are not subject to overturn or damage from the high winds.
- 7.7.6.7 The CONSTRUCTOR is responsible for costs associated with clean-up of leaks and spills associated or resulting from construction activities, including any fines or penalties.

END OF SECTION

SAMPLE

Section 00 74 13

PROJECT REQUIREMENTS

«F2»

TABLE OF ARTICLES

1. MODIFICATIONS TO THE GENERAL CONDITIONS
2. MODIFICATIONS TO THE INSTITUTION REQUIREMENTS
3. PROJECT MILESTONE SCHEDULE
4. CERTIFIED IOWA TARGETED SMALL BUSINESS PARTICIPATION GOAL
5. IOWA STATE BUILDING CODE COMMISSIONER INSPECTIONS
6. SITE INFORMATION
7. FEDERAL FUNDING REQUIREMENTS
8. DEPARTMENT OF RESIDENCE REQUIREMENTS
9. COLLEGE OF VETERINARY MEDICINE REQUIREMENTS
10. CONSTRUCTION MANAGER

ARTICLE 1

MODIFICATIONS TO THE GENERAL CONDITIONS

- 1.1 Add the following to Article 1:
  - 1.2 The agreement is made by and between the OWNER and CONSTRUCTOR for construction and services in connection with the «F2» located at «F62», «F63», «F64».
- 1.2 **Error! Bookmark not defined.**Delete if not used or **Error! Bookmark not defined.**Replace Article 6.1 to read as follows:
  - 6.1 NOTICE TO PROCEED The Contract Time will commence upon receipt of a written Notice to Proceed from the OWNER and work shall be completed within the time set forth in the Agreement Between CONSTRUCTOR and OWNER. The Notice to Proceed date is the date that the CONSTRUCTOR may mobilize and commence work on the project site.
    - 6.1.1 SUBSTANTIAL/FINAL COMPLETION Substantial Completion of the Work shall be achieved in accordance with the milestone schedule stated in Section 00 74 13 Project Requirements. Unless otherwise specified in the Certificate of Substantial Completion, the CONSTRUCTOR shall achieve Final Completion in accordance with Section 00 74 13 Project Requirements. The deadlines for Substantial and Final Completion are subject to adjustments as provided for in the Contract Documents.
    - 6.1.2 Time is of the essence for the Agreement and the Contract Documents.
    - 6.1.3 Unless instructed by the OWNER in writing, the CONSTRUCTOR shall not knowingly commence the Work before the effective date of insurance to be provided by the CONSTRUCTOR or the OWNER as required by the Contract Documents.
- 1.3 Add Article 6.5 to read as follows:
  - 6.5 LIQUIDATED DAMAGES
    - 6.5.1 SUBSTANTIAL COMPLETION The OWNER and the CONSTRUCTOR agree that

this Agreement shall not provide for the imposition of liquidated damages based on the Date of Substantial Completion.

6.5.2 FINAL COMPLETION The OWNER and the CONSTRUCTOR agree that this Agreement shall not provide for the imposition of liquidated damages based on the Date of Final Completion.

## 6.5 LIQUIDATED DAMAGES

6.5.1 SUBSTANTIAL COMPLETION The OWNER and the CONSTRUCTOR agree that this Agreement shall provide for the imposition of liquidated damages based on the Date of Substantial Completion.

6.5.1.1 The CONSTRUCTOR understands that if the Date of Substantial Completion established by this Agreement, as may be amended by subsequent Change Order, is not attained, the OWNER will suffer damages which are difficult to determine and accurately specify. The CONSTRUCTOR agrees that if the Date of Substantial Completion is not attained, the CONSTRUCTOR shall pay the OWNER **Error! Bookmark not defined.**\_\_\_\_\_ and No/100 Dollars **Error! Bookmark not defined.**(\$\_\_\_\_) as liquidated damages and not as a penalty for each **Error! Bookmark not defined.** that Substantial Completion extends beyond the Date of Substantial Completion. The liquidated damages provided herein shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties, and any other damages of whatsoever nature incurred by the OWNER which are occasioned by any delay in achieving the Date of Substantial Completion. The OWNER will deduct and retain out of moneys which may become due hereunder to the CONSTRUCTOR, the amount of such liquidated damages. If the amount due to the CONSTRUCTOR is less than the amount of the liquidated damages suffered by the OWNER, the CONSTRUCTOR shall pay the difference upon demand by the OWNER.

6.5.2 FINAL COMPLETION The OWNER and the CONSTRUCTOR agree that this Agreement shall not provide for the imposition of liquidated damages based on the Date of Final Completion.

1.4 Add Article 6.6 to read as follows:

6.6 LIMITED MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES Except for damages mutually agreed upon by the Parties as liquidated damages in section 6.5 and excluding losses covered by insurance required by the Contract Documents, the OWNER and the CONSTRUCTOR agree to waive all claims against each other for any consequential damages that may arise out of or relate to the Agreement, except for those specific items of damages excluded from this waiver and identified below. The OWNER agrees to waive damages, including but not limited to the OWNER's loss of use of the Project, any rental expenses incurred, loss of income, profit or financing related to the Project, as well as the loss of business, loss of financing, loss of profits not related to this Project, loss of reputation, or insolvency. **The OWNER does not waive direct damages.** The CONSTRUCTOR agrees to waive damages, including but not limited to loss of business, loss of financing, loss of profits not related to this Project, loss of bonding capacity, loss of reputation, or insolvency. **The CONSTRUCTOR does not waive direct damages.** The provisions of this section shall also apply to the termination of this Agreement and shall survive such termination. The following are specifically excluded from this waiver:

- a. Claims for Additional Services by the Owner's consultants caused by delay.
- b. Increases in Owner Project Administration costs caused by delay.
- c. Extended Builders Risk Insurance Premiums due to delay.

- d. Increases in project utility consumption costs due to delay.
- e. Lost parking revenue.
- f. Increased costs associated with Owner furnished equipment caused by delay.
- g. **Error! Bookmark not defined.Error! Bookmark not defined.**

6.6.1 The OWNER and the CONSTRUCTOR shall require similar waivers in contracts with Subcontractors and Others retained for the Project.

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1.5 Add Article 6.7 to read as follows:

6.7 AWARD INCENTIVE The maximum amount of incentive shall be **Error! Bookmark not defined.**\_\_\_\_\_ and No/100 Dollars **Error! Bookmark not defined.**(\$\_\_\_\_\_). To receive an incentive award based upon early completion, the Constructor must provide the OWNER a written notice of its intent to achieve early completion no later than 60 days prior to the contract date of Substantial Completion. If achieved, the Contract Price shall be adjusted by Change Order to reflect the CONSTRUCTOR's incentive award. Incentive award payment will be made upon receipt of a proper application for final payment after execution of that Change Order.

1.6 The following requirements are in addition to and supplement the requirements included in Article 10.2 of the General Conditions:

**Constructors Liability Insurance**

The insurance required by Paragraph 10.2 of the General Conditions shall be written for not less than following limits, or greater if required by law:

Form of Coverage

Minimum Limits of Liability

1. Commercial Automobile Liability Insurance to include non-owned, hired, or rented vehicles as well:
  - a. Bodily Injury and Property Damage
2. Commercial General Liability Insurance including:
  - a. Bodily Injury and Property Damage
  - b. Damage to Rented Premise
  - c. Medical Expense Coverage
  - d. Contractual Liability Coverage
  - e. Independent Contractor's Protective Liability Coverage
  - f. Explosion, collapse and damage to underground property
  - g. Completed operations coverage for a period of two (2) years after Acceptance of the Work

\$1,000,000 combined single limit each accident

\$1,000,000 for each occurrence  
\$2,000,000 aggregate

\$ 300,000

\$ 5,000

h. Policy aggregate shall apply separately to each project

3. Worker's Compensation and Occupational Diseases

Statutory Limits

Employer's Liability

\$100,000/500,000/100,000

Worker's Compensation Policy shall include a Waiver of Subrogation in favor of Iowa State University; the Board of Regents, State of Iowa; and the State of Iowa. Endorsement form WC 00 03 13 shall be attached to the certificate of insurance.

Business entities that are sole proprietors, partnerships, or LLC's must show proof that the proprietors, partnerships and LLC members have elected to be included in the workers compensation coverage. This coverage election applies to individuals working in any capacity on Iowa State University projects whether on site or off site. The form of proof required shall be a statement in the description box on the certificate of insurance, or an applicable endorsement form.

Business entities that are sub S or C corporations must not have elected to exclude any officers. This applies to officers who are working in any capacity on Iowa State University projects regardless of whether they are on site or off site.

4. Excess Liability

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Insurance required herein shall be primary to any other insurance coverage purchased and shall be issued by an insurer licensed to do business in the state of Iowa having a minimum rating of "A- VII" or higher from A. M. Best.

The CONSTRUCTOR shall name Iowa State University; the Board of Regents, State of Iowa; and the State of Iowa as additional insureds with respect to all operations and work hereunder and shall provide that such insurance applies separately to each insured against whom claim is made or suit is brought. This insurance afforded to the additional insured is to be primary of any other valid and collectible insurance. Additional insured forms CG 2010 and CG 2037 or exact equivalents are both required and must be attached to the certificate. Each and every policy for Liability Insurance, carried by each contractor and subcontractor as required above shall include a Contractual Liability coverage endorsement.

The CONSTRUCTOR shall be responsible for the cost of deductible payments, which shall not be a cost of the Work or passed on to the OWNER.

Certificate of Insurance

- a. CONSTRUCTOR shall identify the name of the Project on the certificate of insurance.
- b. CONSTRUCTOR shall name Iowa State University; the Board of Regents, State of Iowa; and the State of Iowa as additional insureds on the certificate of insurance.

- c. OWNER's address, for filing certificates of insurance, is:

Board of Regents, State of Iowa  
C/O Facilities Planning and Management Department  
200 General Services Building  
700 Wallace Road  
Iowa State University  
Ames, Iowa 50011-4013

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5. PROFESSIONAL LIABILITY INSURANCE

To the extent the CONSTRUCTOR is required to procure design services in accordance with section 3.15 of the General Conditions, the CONSTRUCTOR shall require its design professionals to obtain professional liability insurance for claims arising from the negligent performance of design services under this Agreement, with a company reasonably satisfactory to the OWNER, including coverage for all professional liability caused by any consultants to the CONSTRUCTOR's design professional, which shall be written for not less than \$1,000,000 per claim and \$1,000,000 annual aggregate. The CONSTRUCTOR's design professional shall pay the deductible.

- 1.7 Replace Article 10.3 with the following:

10.3 PROPERTY INSURANCE

- 10.3.1 The OWNER shall purchase and maintain Builder's Risk Insurance in an amount equal to the construction cost, less insurance exclusions until substantial completion or otherwise agreed to in writing by all persons and entities who are beneficiaries of such insurance or until no person or entity, other than the OWNER, has an insurable interest in the property.

The OWNER shall be the named insured on such policy. This insurance shall also name the CONSTRUCTOR, Subcontractors, Sub-subcontractors, and Material Suppliers as loss payees.

This insurance shall be written as a Builder's Risk Policy or equivalent form to cover all risks of physical loss except those specifically excluded by the policy, and shall insure (a) at least against the perils of fire, lightning, explosion (including boilers), windstorm, hail, smoke, aircraft and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, terrorism, debris removal, earth movement, water damage, wind damage, collapse however caused, and reasonable amount of flood and earthquake coverage; (b) resulting damage from defective design, workmanship or material; and (c) direct damage caused by interruption of gas, electric, water and steam service.

- 1.8 The following requirements are in addition to and supplement the requirements included in Article 10.3:

- 1.8.1 The OWNER's Builders Risk insurance coverage includes only building materials and equipment that become a part of the project and does not include CONSTRUCTOR's personal property such as tools and equipment. The CONSTRUCTOR shall carry Special Form Property coverage on equipment, tools, and materials owned or rented in an amount to be determined by the CONSTRUCTOR.

- 1.8.2 The OWNER may purchase and maintain such boiler and machinery insurance as may be required by the Contract Documents or by law. This insurance shall include the interests of the OWNER, the CONSTRUCTOR, subcontractors and sub-subcontractors in the Work.

- 1.8.3 Any loss insured under specified Property Insurance is to be adjusted with the OWNER and made payable to the OWNER as trustee for the insureds, as their interests may



appear. The CONSTRUCTOR shall pay each subcontractor a just share of any insurance moneys received by the CONSTRUCTOR, and by appropriate agreement, written where legally required for validity, shall require each subcontractor to make payments to his sub-subcontractors in similar manner.

1.8.4 If the CONSTRUCTOR requests in writing that insurance for risks other than those specified or other special hazards be included in the property insurance policy, the OWNER shall, if possible, include such insurance, and the cost thereof shall be charged to the CONSTRUCTOR by appropriate Change Order.

1.8.5 The OWNER and CONSTRUCTOR waive all rights against (1) each other and the subcontractors, sub-subcontractors, agents and employees each of the other, and (2) the Design Professional, his consultants, and separate contractors, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by specified property insurance or any other property insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance held by the OWNER as trustee. The foregoing waiver afforded the Design Professional, his agents and employees shall not extend to the liability imposed by indemnification requirements.

1.8.6 The OWNER as trustee shall have power to adjust and settle any loss with the insurers.

1.8.7 If the OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, such occupancy or use shall not commence prior to a time mutually agreed to by the OWNER and CONSTRUCTOR and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. This insurance shall not be canceled or lapsed on account of such partial occupancy or use. Consent of the CONSTRUCTOR and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.

1.8.8 The CONSTRUCTOR's Property Floater insurance policy shall include a waiver of subrogation clause as follows: "It is agreed that in no event shall this insurance company have any right of recovery against OWNER."

1.8.9 The CONSTRUCTOR shall pay a deductible for each Claim made against the OWNER's Builders Risk Policy based upon the contract award amount as follows:

Contract award is less than \$2,500,000; deductible will be \$2,500.

Contract award is between \$2,500,000 and \$19,999,999; deductible will be \$5,000.

Contract award is \$20,000,000 or greater; deductible will be \$25,000.

The OWNER's Builders Risk policy does not include coverage for theft or damage of CONSTRUCTOR's tools and equipment.

## **ARTICLE 2**

### **MODIFICATIONS TO THE INSTITUTION REQUIREMENTS**

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2.1 Add Article 2.1.1 to read as follows:

2.1.1 The OWNER is committed to encouraging construction site safety, and contractor work practices that maximize hazard prevention. In support of this commitment to safety, the CONSTRUCTOR shall enroll this project in the Iowa Occupational Safety and Health Administration/Master Builders of Iowa WORKSAFE recognition program and maintain this designation throughout the project schedule. This program is to be in addition to the CONSTRUCTOR's own safety program. Details and requirements of the WORKSAFE program can be accessed at [www.iowaworksafe.com](http://www.iowaworksafe.com). The CONSTRUCTOR's Safety

Representative shall be the WORKSAFE contact person and the liaison to schedule visits with IA OSHA Consultation and the MBI, verify the onsite safety surveys have taken place and that survey evaluation reports have been issued to all parties on the project.

2.2 Add Article 3.7.3.1 to read as follows:

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3.7.3.1 Iowa State University Campus: CONSTRUCTOR shall be responsible for locating utilities not owned by Iowa State University. The University will locate and mark existing university-owned and operated utilities. Note that not all utilities on the ISU Campus are owned by the University. The following utilities are known to have facilities on university property at the project address listed in Article 1 of Section 00 74 13 - Project Requirements. This address must be used in scheduling utility locates with Iowa One Call:

1. Telecommunications – CenturyLink, Iowa Communications Network-State of Iowa, Windstream, ICS Advance Technologies, Aureon, Unite Private Networks
2. Cable TV – Mediacom
3. Natural Gas – Alliant/IES Utilities or Northern Natural Gas Company
4. Water – City of Ames
5. Electrical – City of Ames
6. Sanitary Sewer-City of Ames
7. Storm Sewer-City of Ames

Add Article 5.2.1. to read as follows:

5.2.1 Required Schedule Format:

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5.2.1.1 The CONSTRUCTOR shall prepare the construction schedule as a critical path method network analysis diagram.

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5.2.1.1 The CONSTRUCTOR shall prepare the construction schedule as a double line horizontal bar Gantt chart or other similar form acceptable to the OWNER.

### **ARTICLE 3** **PROJECT MILESTONE SCHEDULE**

The following is a list of project milestones. The milestone dates specified are for specific items critical to maintaining the project schedule. These milestone dates shall be incorporated in the CONSTRUCTOR's coordination and planning and be included in the Construction Schedule prepared in accordance with Article 6 of the General Conditions and Article 5 of the Institution Requirements.

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	<b>DAYS</b>	<b>DATE</b>	<b>SPECIFICATION</b>
Pre-Bid Conference	-	«F40»	Instructions to Bidders – Article 18
Last Day for Substitutions	-	«F60»	Instructions to Bidders – Article 12
Receipt of Bids	-	«F50»	Instructions to Bidders – Article 1
Projected Notice of Award*	-	«F57»	Instructions to Bidders – Article 11
Submittal of Proposed Subcontractor List	2	«F58»	General Conditions – Article 5
Execution of Contract	10	«F56»	Instructions to Bidders – Article 16
Construction Start Date	-	«F56»	
Projected Notice to Proceed*	-		Instructions to Bidders – Article 11 and Project Requirements – Article 6

Substantial Completion <b>Error! Bookmark not defined.</b>	-	«F53»	General Conditions – Article 6
<b>Error! Bookmark not defined.</b>	-		General Conditions – Article 6
Final Completion	-	«F55»	General Conditions – Article 6
*Actual Notice of Award date cannot be guaranteed. Milestone dates will be adjusted accordingly based on the actual Notice of Award date.			
*Actual <u>Projected Notice of Award</u> and <u>Projected Notice to Proceed</u> dates cannot be guaranteed. Milestone dates will be adjusted accordingly based on the actual <u>Notice of Award</u> and <u>Notice to Proceed</u> dates.			

**ARTICLE 4**  
**CERTIFIED IOWA TARGETED SMALL BUSINESS PARTICIPATION GOAL**

4.1 PARTICIPATION GOAL

- 4.1.1 The certified Iowa Targeted Small Business participation goal for this project is **Error! Bookmark not defined.****Error! Bookmark not defined.****Syntax Error, «** of the base bid. When a participation goal has been established, the actual Targeted Small Business participation amount must be reported on the Final Payment Reporting Form as part of the Targeted Small Business Program.

**ARTICLE 5**  
**IOWA STATE BUILDING CODE COMMISSIONER INSPECTIONS**

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5.1 GENERAL

- 5.1.1 This project is subject to building inspections by the State Building Code Commissioner. Inspections will be conducted at three phases of construction: foundation, rough-in, and final.
- 5.1.2 Construction or Work subject to inspection by the State Building Code Commissioner shall remain accessible and exposed for inspection. The CONSTRUCTOR shall provide access to and means for inspection. When the project is of such size that the inspector will only be able to view one portion of the building at that phase of construction, the CONSTRUCTOR shall request an inspection on the first portion to be constructed before any Work subject to inspection is covered or concealed. The CONSTRUCTOR is responsible for the removal or replacement of any material required to allow inspection.
- 5.1.3 In addition to the inspections specified above, the State Building Code Commissioner is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the State Building Code Commissioner.
- 5.1.4 The CONSTRUCTOR shall notify the OWNER when work is ready for inspection and the Owner's Representative will schedule the inspection with the State Building Code Bureau. Inspections will be conducted by the Bureau between the hours of 8:00 a.m. and 4:30 p.m., unless other arrangements have been made with the CONSTRUCTOR or the OWNER. Requests for inspections must be made at least forty-eight (48) hours in advance.

5.1.5 All base inspection fees for the State Building Code Commissioner will be paid by the OWNER. If fees are incurred by the OWNER for additional inspections required because the Work was not ready for the scheduled inspection or because Work was not installed in accordance with the Contract Documents and applicable codes, the CONSTRUCTOR shall reimburse the OWNER for all additional fees incurred.

## 5.2 INSPECTION VIOLATIONS

5.2.1 After the requested inspections are completed, the State Building Code Commissioner will notify the CONSTRUCTOR or the OWNER of any violations observed. Violations of the applicable codes will be identified in writing with the appropriate code citation. A copy of the violations will be mailed to the CONSTRUCTOR and the OWNER.

5.2.2 Any violations shall be promptly corrected. Affected portions of the Work shall not be covered or concealed until authorized by the State Building Code Commissioner.

5.2.3 Follow-up inspections, to verify that corrections of violations have been completed, will be at the discretion of the inspector.

## 5.3 FOUNDATION INSPECTIONS

5.3.1 A foundation inspection will be conducted to determine compliance with applicable provisions of the State Building Code in effect at the time that the project is submitted to the Bureau for plan review.

5.3.2 Violations identified during a State conducted foundation inspection must be corrected immediately before any foundation Work may continue unless specifically approved by the inspector.

5.3.3 If the project is of such size that the entire foundation cannot be inspected during one visit, inspection of one typical segment of the foundation will be deemed sufficient.

## 5.4 ROUGH-IN INSPECTIONS

5.4.1 A rough-in inspection will be conducted to determine compliance with portions of the State Building Code including, but not limited to, fire-rated enclosures, framing, plumbing, electrical, and means of egress.

5.4.2 Violations identified during a rough-in inspection must be corrected within a time frame to be established by the inspector and listed on the inspection report.

5.4.3 If the project is of such size that a rough-in inspection of the entire structure cannot be inspected during one visit, inspection of one typical segment of the structure will be deemed sufficient.

## 5.5 FINAL INSPECTIONS

5.5.1 A final inspection will be conducted on the entire structure prior to occupancy of the building. This inspection may include, but will not necessarily be limited to, fire-protection features such as rated walls, doors and dampers, the testing of fire protection systems, handicapped accessibility, and means of egress.

5.5.2 Violations identified during a final inspection must be corrected before the building will be approved for permanent occupancy. The inspector may approve the building for partial or temporary occupancy depending on the nature and seriousness of the violation and establish a time frame for the correction of the violation(s).

## 5.6 CERTIFICATE OF OCCUPANCY

- 5.6.1 Buildings subject to this inspection agreement may not be occupied until a Certificate of Occupancy has been issued by the State Building Code Bureau.
- 5.6.2 At the request of the OWNER, a partial Certificate of Occupancy or Temporary Certificate of Occupancy may be issued for a definitive area of the building before the completion of the Work, provided that such portion or portions are deemed safe for occupancy while the remainder of the Work is completed.

## **ARTICLE 6** **SITE INFORMATION**

- 6.1 Geotechnical Report: A Geotechnical Report has been prepared by a Professional Consultant, as a service to the OWNER. No representation or warranty is made by the OWNER of the adequacy or contents of this report. The Geotechnical Report is available reference material on the bidding website, [www.plans.print.iastate.edu](http://www.plans.print.iastate.edu) and after award can be accessed on the OWNER's Project Web Site.
- 6.2 Site Survey: A Site Survey has been performed by a Professional Consultant as a service to the OWNER. No representation or warranty is made by the OWNER of the adequacy or contents of this survey. The Site Survey is available reference material on the bidding website, [www.plans.print.iastate.edu](http://www.plans.print.iastate.edu) and after award can be accessed on the OWNER's Project website.
- 6.3 Hazardous Materials Inventory: A Hazardous Materials Inventory has been performed by Iowa State University Environmental Health and Safety as a service to the OWNER. The inventory list is available reference material on the bidding website, [www.plans.print.iastate.edu](http://www.plans.print.iastate.edu) and after award can be accessed on the OWNER's Project Web Site.

## **ARTICLE 7** **FEDERAL FUNDING REQUIREMENTS**

- 7.1 This project is funded in whole or in part by federally provided funds.

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- 7.2 The CONSTRUCTOR shall be in compliance with Executive Order 11246, "Equal Employment Opportunity" as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity" and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, and Department of Labor".

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- 7.3 The CONSTRUCTOR shall be in compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each CONSTRUCTOR or sub recipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled.

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- 7.4 The CONSTRUCTOR shall be in compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1-1/2 times the basic rate of pay for all hours worked in

excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

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7.5 The CONSTRUCTOR shall be in compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.).

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7.6 The CONSTRUCTOR shall be in compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. Attached is a copy of the current prevailing wage determination issued by the Department of Labor for Story County, Iowa dated \_\_\_\_\_.

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7.7 The CONSTRUCTOR shall be in compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient (OWNER).

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7.8 The CONSTRUCTOR shall be in compliance with Debarment and Suspension (Executive Orders 12549 and 12689). No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

**ARTICLE 8**  
**DEPARTMENT OF RESIDENCE REQUIREMENTS**

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8.1 CONSTRUCTOR Employee Criminal Background Checks

8.1.1 The CONSTRUCTOR shall ensure that no CONSTRUCTOR employee or Subcontractor employee is assigned to perform work in Iowa State University (ISU) Department of Residence facilities that have been convicted of or pled guilty (including deferred judgment) to any felony or misdemeanor crime involving violence, theft or sex crimes. If the CONSTRUCTOR believes that timing or circumstances of an employee's conviction or the employee's rehabilitation efforts warrant a waiver of this requirement, CONSTRUCTOR may submit to ISU a written request for such a waiver. ISU shall determine whether to grant such request at its sole discretion.

8.1.2 All employees assigned to perform work at an ISU Department of Residence facility under

the supervision of the CONSTRUCTOR including employees of the CONSTRUCTOR, subcontractors, sub-subcontractors, etc. shall be subject to a criminal background check. Background checks must comply with the following minimum requirements:

- a. The criminal background check shall be performed by a law enforcement agency or a person, company, or agency that regularly engages in the practice of research and assembling criminal history information on specific persons for the purpose of furnishing criminal history reports to third parties and is accredited by the National Association of Professional Background Screeners (NAPBS).
- b. The criminal background check shall cover a minimum of seven years prior to the date of the assignment of the employee to an ISU Department of Residence facility.
- c. The criminal background check must have been conducted prior to the date CONSTRUCTOR assigns the employee to an ISU Department of Residence facility.
- d. The criminal background checks shall include records for any jurisdiction in which the employee has lived and/or worked during the preceding seven year period.
- e. The CONSTRUCTOR shall re-screen all employees assigned to perform work at an ISU Department of Residence Facility every two years, provided that the term of this Contract is for two years or more or the Contract is renewed such that it is in effect for two years or more.
- f. The CONSTRUCTOR shall obtain any required consent from the employee and shall comply with the Fair Credit Reporting Act as applicable.
- g. If the CONSTRUCTOR has or obtains other criminal background information, including police reports and arrest information, which potentially disqualifies an employee otherwise deemed eligible by CONSTRUCTOR to provide services under this contract, CONSTRUCTOR shall promptly notify ISU.

8.1.3 The CONSTRUCTOR shall retain written documentation as proof of compliance with these requirements. The CONSTRUCTOR shall certify in writing that all employees assigned to work within an ISU Department of Residence facility have been subjected to a criminal background check prior to commencing any work or activities within an ISU Department of Residence facility. The OWNER or its authorized representative shall have the right to audit documentation of the criminal background checks relevant to this Contract. The CONSTRUCTOR shall make such records available, in their original form, for inspection by the OWNER or its authorized representative at the CONSTRUCTOR's normal place of business during regular business hours and without prior notice.

8.1.4 The CONSTRUCTOR shall maintain a daily log of all employees working on the site and publish the log to the project web site daily.

8.1.5 Any suppliers, delivery personnel, service entities, or similar personnel visiting the site to perform short term or incidental work at the direction of the CONSTRUCTOR any subcontractors to who have not been subjected to a criminal background check in accordance with the procedures above must be escorted at all times by an employee of the CONSTRUCTOR who has been subjected to a criminal background check.

8.1.6 CONSTRUCTOR shall develop and submit procedures to comply with these requirements, including the name of the person, company, or agency that will conduct the criminal background checks, within 10 days of the award of the contract. Failure of CONSTRUCTOR to enforce these requirements may be cause for termination of contract.

8.2 CONSTRUCTOR Employee Identification: CONSTRUCTOR shall provide all employees and Subcontractor employees with an identification badge to be worn at all times. The identification

badge shall be laminated and must be displayed clearly on the employee at all times. The identification badge will include a photo of the employee, company name and employee's full name. Failure of an employee to properly display the identification badge may be cause for the removal of employee from the work site. Failure of contractor to enforce this requirement may be cause for termination of the contract.

- 8.3 Keys issued by the Department of Residence may be required to be checked in/out on a daily basis, depending on access given. All keys shall be returned to the Department of Residence Service Center at 0347 Helser Residence Hall.
- 8.4 **Error! Bookmark not defined.**Access Controls:
- 8.5 **Error! Bookmark not defined.**Work Hours:
- 8.6 **Error! Bookmark not defined.**Other Requirements:

**ARTICLE 9**  
**COLLEGE OF VETERINARY MEDICINE REQUIREMENTS**

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9.1 CONSTRUCTOR Employee Identification

- 9.1.1 All CONSTRUCTOR and Subcontractor employees shall display company identification at all times. The identification may include a company-issued identification badge or apparel with company name (e.g., hard hat, t-shirt, etc.). Failure of an employee to properly display the identification method may be cause for the removal of employee from the work site. Failure of CONSTRUCTOR to enforce this requirement may be cause for termination of the contract.

**ARTICLE 10**  
**CONSTRUCTION MANAGER**

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10.1 DEFINITIONS

- 10.1.1 The CONSTRUCTION MANAGER is a person or entity retained by the OWNER to represent the OWNER as its agent and provide administrative, management and related services to coordinate scheduled activities and responsibilities of the Contractors with each other and with those of the CONSTRUCTION MANAGER, the OWNER and the DESIGN PROFESSIONAL. The term "CONSTRUCTION MANAGER" means the CONSTRUCTION MANAGER or the CONSTRUCTION MANAGER's authorized representative.
- 10.1.2 Duties, responsibilities and limitations of authority of the CONSTRUCTION MANAGER as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the OWNER, CONSTRUCTION MANAGER, DESIGN PROFESSIONAL and CONSTRUCTOR. Consent shall not be unreasonably withheld.
- 10.1.3 In case of termination of the contract with the CONSTRUCTION MANAGER, the OWNER shall appoint a CONSTRUCTION MANAGER against whom the CONSTRUCTOR makes no reasonable objection and whose status under the Contract Documents shall be that of the former construction manager.

10.2 DUTIES OF THE CONSTRUCTION MANAGER

- 10.2.1 The CONSTRUCTION MANAGER, in cooperation with the DESIGN PROFESSIONAL and the OWNER, shall provide administration of the Contracts for Construction as set forth in the Contract Documents. The CONSTRUCTION MANAGER will advise and consult with the OWNER and will have authority to act on behalf of the OWNER only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in



accordance with other provisions of the Contract.

- 10.2.2 The CONSTRUCTION MANAGER has prepared bid package scope description documents that divide the Work of the project into individual contracts for various categories of Work. The bid package scope descriptions assign responsibility for performance of the Work and responsibilities for temporary Project facilities and equipment, materials and services for common use of the contractors and/or the CONSTRUCTION MANAGER.
- 10.2.3 The CONSTRUCTION MANAGER will coordinate the sequence of construction and assignment of space in areas where the contractors are performing Work. The CONSTRUCTION MANAGER will provide administrative, management and related services as required to assist in the coordination of the work of the contractors with each other and with the activities and responsibilities of the CONSTRUCTION MANAGER, the OWNER and the DESIGN PROFESSIONAL.
- 10.2.4 The CONSTRUCTION MANAGER will schedule and conduct pre-construction, construction and progress meetings to discuss such matters as procedures, progress, issues and scheduling. The CONSTRUCTION MANAGER will prepare and promptly distribute minutes for all meetings.
- 10.2.5 The CONSTRUCTION MANAGER will prepare and maintain the Master Construction Schedule. The CONSTRUCTION MANAGER will prepare the Master Construction Schedule to incorporate the activities of contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery of products requiring long lead time procurement. The OWNER's occupancy requirements and portions of the Project having occupancy priority will be included on the Master Construction Schedule. The CONSTRUCTION MANAGER will update and reissue the Master Construction Schedule as required to show current conditions and revisions required by actual experience.
- 10.2.5.1 The CONSTRUCTOR shall promptly furnish the CONSTRUCTION MANAGER on an ongoing basis with scheduling information as required by Article 5 of 00 73 13 Institution Requirements or requested by the CONSTRUCTION MANAGER for the Contract Work. In consultation with the CONSTRUCTOR, the CONSTRUCTION MANAGER shall incorporate the Contract Work and work of other trade contractors into an overall Master Construction Schedule for the entire Project. The Master Construction Schedule and all subsequent changes and additional details shall be submitted to the CONSTRUCTOR promptly and reasonably in advance of the required performance.
- 10.2.5.2 The CONSTRUCTION MANAGER shall have the right to coordinate the contractors, including the right, if necessary, to change the time, order and priority in which the various portions of the Trade Contract Work and the other work associated with the Project shall be performed. The Master Construction Schedule shall constitute the schedule to be used by the CONSTRUCTOR, other contractors, the CONSTRUCTION MANAGER and the OWNER until subsequently revised.
- 10.2.6 The CONSTRUCTION MANAGER will determine in general that the Work is being performed in accordance with the requirements of the Contract Documents, will keep the OWNER informed of the progress of the Work, and will endeavor to guard the OWNER against defects and deficiencies in the Work and achieve satisfactory performance from each of the contractors. The CONSTRUCTION MANAGER will recommend courses of action to the OWNER when requirements of a Contract are not being fulfilled, and the nonperforming party will not take satisfactory corrective action.
- 10.2.7 Subject to review by the DESIGN PROFESSIONAL, the CONSTRUCTION MANAGER will

have the authority to reject Work which does not conform to the Contract Documents. Whenever the CONSTRUCTION MANAGER considers it necessary or advisable for implementation of the intent of the Contract Documents, the CONSTRUCTION MANAGER will have authority to require special inspection or testing, or make recommendations to the DESIGN PROFESSIONAL and the OWNER regarding special inspection or testing, or work not in accordance with the provisions of the Contract Documents whether or not such work is fabricated, installed or completed.

- 10.2.8 The CONSTRUCTION MANAGER will recommend necessary or desirable changes to the DESIGN PROFESSIONAL and the OWNER, review requests for changes, assist in the preparation of documentation of changes, assist in negotiating contractors' proposals, and submit recommendations on appropriate action on changes to the Work to the DESIGN PROFESSIONAL and the OWNER.
- 10.2.9 The CONSTRUCTION MANAGER will review and certify all Applications for Payment by the CONSTRUCTOR, including final payment.
- 10.2.10 The CONSTRUCTION MANAGER shall not be responsible for construction means, methods, techniques, sequences and procedures employed by contractors in the performance of their Contracts, and shall not be responsible for the failure of any contractor to carry out work in accordance with the Contract Documents. Coordination efforts by the CONSTRUCTION MANAGER, DESIGN PROFESSIONAL, and OWNER shall in no way relieve the CONSTRUCTOR of their responsibility to fully coordinate their work and the work of others.
- 10.2.11 The CONSTRUCTION MANAGER will consult with the DESIGN PROFESSIONAL and the OWNER if any contractor requests interpretations for the meaning and intent of the Drawings and Specifications, and assist in the resolution of questions which may arise.
- 10.2.12 The CONSTRUCTION MANAGER will receive from the CONSTRUCTOR and review and approve all Shop Drawings, Product Data and Samples, assist in the coordination of them with information received from other contractors, and transmit to the DESIGN PROFESSIONAL those recommended for approval. The CONSTRUCTION MANAGER's actions will be taken with such reasonable promptness as to cause no delay in the Work of the CONSTRUCTOR or in the activities of other contractors, the OWNER, or the DESIGN PROFESSIONAL.
- 10.2.13 The CONSTRUCTION MANAGER shall review the safety programs developed by each of the contractors for purposes of coordinating the safety programs with those of the other contractors. However, CONSTRUCTION MANAGER is not responsible, but rather the CONSTRUCTOR's are solely responsible for their safety precautions and programs in connection with the Work. The CONSTRUCTION MANAGER's responsibilities for coordination of safety programs shall not extend to direct control over or charge of the acts or omissions of the Contractors, subcontractors, agents or employees of the CONSTRUCTOR or subcontractors, or any other persons performing portions of the Work and not directly employed by the CONSTRUCTION MANAGER. If the CONSTRUCTION MANAGER deems any part of the Work or Worksite unsafe, the CONSTRUCTION MANAGER, without assuming responsibility for the CONSTRUCTOR's safety program, may require the CONSTRUCTOR to stop performance of the Work and/or take corrective measures satisfactory to the CONSTRUCTION MANAGER. The CONSTRUCTION MANAGER shall report the issue to the OWNER. If the CONSTRUCTOR does not adopt corrective measures, the OWNER may perform them and deduct their cost from the Contract Price. The CONSTRUCTOR agrees to make no claim for damages, for an increase in the Contract Price or for a change in the Contract time based on the CONSTRUCTOR's compliance with the OWNER'S reasonable request. The CONSTRUCTION MANAGER's rights under this section are in addition to the OWNER's rights under Section 3.11.6 of the General Conditions.

- 10.2.14 The CONSTRUCTION MANAGER will record the progress of the Project and maintain a daily log containing a record of weather, contractors' work on the site, number of workers, work accomplished, problems encountered, and other similar relevant data as the OWNER may require. These reports will be available to the OWNER, DESIGN PROFESSIONAL and the CONSTRUCTOR. Each CONSTRUCTOR is responsible for maintaining daily report of the construction progress for their contract work in accordance with Article 7 of 00 73 13 Institution Requirements.
- 10.2.15 The CONSTRUCTION MANAGER will maintain one record copy of all Contracts, Drawings, Specifications, Addenda, Change Orders and other modifications at the site, in good order and marked currently to record all changes and selections made during construction, and in addition approved Shop Drawings, Product Data, Samples, similar required submittals and other related documents and revisions which arise out of the Contracts or work. The CONSTRUCTION MANAGER will maintain records of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. These records will be available to the DESIGN PROFESSIONAL and the CONSTRUCTOR, and will be delivered to the OWNER upon completion of the Project.
- 10.2.16 The CONSTRUCTION MANAGER will coordinate the delivery and storage, protection and security for OWNER-purchased materials, systems and equipment which are a part of the Project, until such items are incorporated into the Project.
- 10.2.17 The CONSTRUCTION MANAGER will, with the DESIGN PROFESSIONAL and the OWNER's maintenance personnel, observe the contractors' checkout of utilities, operational systems and equipment for readiness and assist in their initial start-up and testing.
- 10.2.18 When the CONSTRUCTION MANAGER considers each contractor's work or a designated portion thereof substantially complete, the CONSTRUCTION MANAGER shall prepare for the DESIGN PROFESSIONAL and the OWNER a summary of the status of the work of each contractor, listing changes in the previously issued Certificates of Substantial Completion of the work, a list of incomplete or unsatisfactory items and a schedule for their completion. The CONSTRUCTION MANAGER will assist the DESIGN PROFESSIONAL in conducting inspections to determine the dates of Substantial Completion. The CONSTRUCTION MANAGER will coordinate the correction and completion of uncompleted items on their Certificate of Substantial Completion of the work.
- 10.2.19 Following the DESIGN PROFESSIONAL issuance of a Certificate of Substantial Completion of the project or designated portion thereof, the CONSTRUCTION MANAGER will evaluate the completion of the work of the CONSTRUCTOR and make recommendations to the DESIGN PROFESSIONAL and the OWNER when work is ready for final inspection. The CONSTRUCTION MANAGER will assist the DESIGN PROFESSIONAL and the OWNER in conducting final inspections and will receive and forward to the OWNER written warranties, guarantees, affidavits, releases, bonds and waivers and related documents required by the Contract and assembled by the CONSTRUCTOR. The CONSTRUCTION MANAGER will deliver all keys, manuals, record drawings, and maintenance stocks to the OWNER.
- 10.2.20 During the one (1) year warranty period following the date of Substantial Completion, the CONSTRUCTION MANAGER will work with the Owner's Representative to oversee, monitor, and coordinate the remedial work of the contractors, including, but not limited to, making certain that the appropriate contractors are notified of the extent and nature of the remedial work which needs to be done and that such work is done in a timely and satisfactory manner.

END OF SECTION