

Education Achievement Authority  
of Michigan  
Equity. Choice. Reinvention.

**RESOLUTION 2012-47  
APPROVAL OF PRE-KINDERGARTEN LEASE AND OPERATIONS AGREEMENT**

The Executive Committee of the Education Achievement Authority resolves:

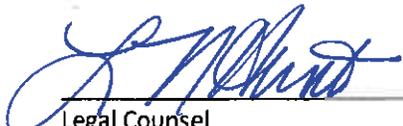
1. That the attached Pre-Kindergarten Lease and Operations Agreement with the School District of the City of Detroit, which shall make available pre-kindergarten facilities, is approved by the Executive Committee of the Authority as the governing body of the Authority;
2. That the Chancellor is authorized to execute the Pre-Kindergarten Lease and Operations Agreement on behalf of the Authority;
3. That the Secretary of the Executive Committee of the Authority shall enter the terms of the Agreement in the minutes of the proceedings of the Executive Committee of the Authority.

*Certification:*

I certify that this resolution was duly adopted by the Executive Committee of the Education Achievement Authority at a properly-noticed open meeting held with a quorum present on the \_\_\_\_ day of \_\_\_\_\_.

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

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

  
\_\_\_\_\_  
Legal Counsel  
Approved as to Form

## PRE-KINDERGARTEN LEASE AND OPERATIONS AGREEMENT

THIS IS A PRE-KINDERGARTEN LEASE AND OPERATIONS AGREEMENT dated as of July 1, 2012, by and between by and between the **SCHOOL DISTRICT OF THE CITY OF DETROIT**, a body corporate and a Michigan general powers public school district, whose address is 14<sup>th</sup> Floor, Fisher Bldg., 3011 W. Grand Blvd, Detroit, Michigan 48202 (hereinafter referred to as the "District") and **EDUCATION ACHIEVEMENT AUTHORITY**, a Michigan public body corporate and special authority, whose address is 3044 West Grand Boulevard, # 14-550, Detroit, Michigan 48202-3037, (hereinafter referred to as "EAA"). The District and EAA are referred to herein individually as a "Party" and together as the "Parties."

### BACKGROUND

WHEREAS, the District currently operates pre-kindergarten classes for eligible children who are residents of the City of Detroit;

WHEREAS, certain schools, identified in Exhibit A hereto, operated by the District will now be operated by the EAA; and

WHEREAS, the District desires to continue to operate pre-kindergarten classes in the school buildings, listed on Exhibit A hereto, and the EAA is desirous of having such pre-kindergarten classes in such school buildings.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, and intending to be legally bound hereby, the parties hereby agree as follows:

### ARTICLE I LEASE OF SCHOOL BUILDING CLASSROOMS

1. **Premises.** For the term, EAA hereby demises and leases to the District, and the District hereby leases from EAA, those certain premises in the City of Detroit, County of Wayne, State of Michigan, located on the first floor of each school building, as more particularly described in Exhibit A hereto (each a "Pre-Kindergarten Facilities"), in its "as is" and "with all faults" condition, without representation or warranty of any kind by EAA.

2. **Term.** The term of this Lease is for a period of five (5) years and shall commence at 12:01 AM of the 1<sup>st</sup> day of July, 2012, and unless sooner terminated under the provisions of this Lease shall terminate at 11:59 PM July 31, 2017 ("Term"). The Term may be extended in accordance by the written agreement of the parties. The District may terminate this Agreement at any time in its sole discretion it determines not to operate pre-kindergarten classes in the School Building. This lease will also terminate in the event that certain lease agreement relating to the applicable school building between the District and the EAA is terminated (each an "EAA Lease") is terminated.

3. **No Rent and Operations Expense.** The District, in consideration and respect of each EAA Lease, hereby leases and hire each Pre-Kindergarten Facilities for the said Term for no cost.

4. **Other Parts of Building.** EAA hereby further agrees that an agreed-upon entrance to said Building will be kept unlocked or open from 6:00 a.m. to 8:00 p.m., Monday through Friday during the term of this Agreement so that the District, its parents, students, guests and invitees shall be able to enter the building during such times. In addition, EAA shall designate, maintain and keep open during all such times such hallways or passageways as are necessary for the District to pass from the said entrance(s) to the Premises during the aforementioned hours. EAA should designate, maintain and keep open as well, sufficient lavatories, as the District shall require. Such entrance(s), passageways, hallways, and lavatories shall be reasonable accessible to and from each Pre-Kindergarten Facilities. The District shall also have use of playground and related equipment for the use of the students in the pre-kindergarten classes. There will be no extra charge to the District for reasonable use of utilities and services as follows: gas, water, sewage, electricity, trash and garbage removal, any other janitorial services and security. EAA shall provide any security whatsoever for the school buildings and each Pre-Kindergarten Facilities. This Agreement does not include telephone service, internet connection, any computer cabling or fixture improvements, and all such costs must be borne by the District.

5. **Telephones, Internet, Other Services not Provided by EAA.** The District may, at its own expense, install one or more telephones and/or telephone outlets within the Pre-Kindergarten Facilities.

6. **Use of Premises.** The Premises may be used by the District at any time between the hours of 6:00 AM and 8:00 PM, local time, Mondays through Fridays throughout the Term. The District may use each Pre-Kindergarten Facilities as Detroit Public Schools' pre-kindergarten operations and for no other use without EAA's prior written consent.

7. **Repairs and Alterations.** With respect to repairs, alterations, and the like, it is agreed that EAA shall keep the school Buildings in the condition required by the EAA Leases. The District shall maintain the Pre-Kindergarten Facilities.

## ARTICLE I PRE-KINDERGARTEN OPERATIONS

1. **District Personnel.** The District shall provide the teachers and personnel required to provide pre-kindergarten classes at each Pre-Kindergarten Facilities. All such persons shall be employees of the District and shall be under the control and supervision of the District and shall abide by District's policies and procedures and the terms of any applicable collective bargaining agreements.

2. **District Students.** All students enrolled and attending pre-kindergarten classes at each Pre-Kindergarten Facilities shall be students of the District, and shall be under the control and supervision of the District and shall abide by District's policies and procedures.

3. **License, Furniture and Supplies.** The District shall maintain the Head Start and/or Great Start Readiness Program licenses required to operate the pre-kindergarten classes and shall provide furniture and classroom supplies for the Pre-Kindergarten Facilities. The EAA shall provide all other supplies necessary to provide the services required by Section 4 of Article I of this Agreement.

4. **Mutual Cooperation.** Although the parties understand and agree that the District operations of the Pre-Kindergarten Facilities and the operations of the EAA are autonomous, independent operations, the parties agree to cooperate with each other so as not to unreasonably interfere with the EAA's use of the School Building as a charter school and the District's provision of pre-kindergarten classes in each Pre-Kindergarten Facilities. Specifically, by way of illustration, the parties agree to abide by the operational understandings outlined in **Exhibit B hereto**, which exhibit may be amended and revised by the mutual agreement of the parties, without the need to amend and restate the entire agreement. Each party will designate primary and substitute contacts to resolve any day-to-day issues which may occur.

5. **Professional Development.** The District staff and personnel will comply with any professional development and training required by the District. In the event that the EAA has arranged or provided professional development and training for its staff and the EAA chooses to invite the District's personnel, the District shall not object to attendance by its staff so long as such professional development and training does not interfere with the District's staff performance of their duties at the Pre-Kindergarten Facilities and the District is not required to pay the staff or the EAA for such professional development and training.

### ARTICLE III MISCELLANEOUS

1. **Sections and Headings.** The division of this Agreement into articles, sections and subsections and the insertion of headings are for the convenience of reference only and shall not affect the interpretation of this Agreement. Unless otherwise indicated, any reference in this Agreement to an article, section, subsection, schedule or exhibit refers to the specified article, section or subsection of, or schedule or exhibit to, this Agreement.

2. **Number, Gender and Pronouns.** Words importing the singular number only shall include the plural and vice versa, words importing gender shall include all genders and words importing persons shall include individuals, corporations, partnerships, limited liability companies, associations, trusts, governmental bodies and other legal or business entities of any kind.

3. **Entire Agreement and Amendments.** This Agreement (including the schedules and exhibits), together with the documents delivered pursuant hereto, constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior oral or written agreements, negotiations, discussions and understandings between the parties. This Agreement may be amended only by a written instrument duly executed by all parties hereto.

4. **Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Michigan without giving effect to other conflicts of laws or principles thereof.

5. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument.

6. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto. No party to this Agreement may assign its rights under this Agreement to any other person without obtaining the written permission of the other party.

7. **Benefit.** Nothing expressed or referred to in this Agreement is intended or shall be construed to give any person other than the parties to this Agreement or their respective successors or permitted assigns any legal or equitable right, remedy or claim under or in respect of this Agreement or document delivered pursuant, it being the intention of the parties that this Agreement and the transactions contemplated hereby shall be for the sole and exclusive benefit of such parties or such successors and permitted assigns.

8. **Expenses.** Each party shall bear its own expenses incurred in connection with this Agreement and with the performance of its obligations hereunder.

9. **Construction.** The parties acknowledge that the parties and their counsel have reviewed (or their counsel has had the opportunity to review) and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

10. **Notices.** All written notices, consents, approvals, requests and other communications ("Notices") required or permitted under this Agreement shall be personally delivered with receipt obtained, or mailed by overnight mail or registered or certified first-class mail, return receipt requested, addressed as follows:

If to the District, to:

School District of the City of Detroit  
Fisher Building  
3011 W. Grand Boulevard  
Detroit, Michigan 48202  
Attention: Wilma Taylor-Costen

With a copy to:

The School District of the City of Detroit

Fisher Building  
3011 W. Grand Boulevard  
18<sup>th</sup> Floor  
Detroit, Michigan 48202  
Attention: General Counsel

If to the EAA, to:

Education Achievement Authority  
3044 West Grand Boulevard, # 14-550  
Detroit, Michigan 48202-3037  
Attention: Chancellor

All Notices shall be deemed given on the day when hand delivered or, if mailed, on the day following the day of mailing. Either party to this Agreement may change its address for the receipt of Notices at any time by giving Notice to the other party as provided in this Section 10.

11. **Further Assurances.** Each party promptly shall cause to be taken, executed, acknowledged or delivered all such further acts, conveyances, documents and assurances as any other party from time to time reasonably may request in order to carry out and effectuate the intent and purposes of this Agreement.

12. **No Assignment.** The EAA shall not assign or transfer the whole or any part of this Agreement or any monies due or to become due hereunder without the prior written approval of the District.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be signed by their duly authorized representatives with effect from the day and year first above written.

**SCHOOL DISTRICT OF THE CITY OF  
DETROIT**

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

Roy S. Roberts

Its: Emergency Manager

**EDUCATION ACHIEVEMENT AUTHORITY**

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

Its: \_\_\_\_\_

**Exhibit A**

("Description of each Pre-Kindergarten Facilities- Address, Room Numbers, Square Footage")

**2012-2013 EAA DESIGNATED LOCATIONS**

<b>SCHOOL</b>	<b>ROOM #'S</b>	<b>HEAD START</b>	<b>GSRP</b>	<b>TOTAL ROOMS</b>
BURNS 14350 Terry Street, Detroit, Michigan	105, 107	2		2
FITZGERALD/BETHUNE 8145 Puritan Street, Detroit, Michigan	132, 136, 138, 140		4	4
LAW ACADEMY 19411 Cliff Avenue, Detroit, Michigan	107, 109, 111	3		3
MURPHY 23901 Fenkell Street, Detroit, Michigan	116, 118, 120	3		3
NOLAN 1150 E. Lantz Street, Detroit, Michigan	116		1	1
PHOENIX ACADEMY 7735 Lane Street, Detroit, Michigan	124, 126		2	2
SCOTT, B. 18440 Hoover, Detroit, Michigan	109		1	1
TRIX 13700 Bringard Drive, Detroit, Michigan	110, 114		2	2
<b>TOTAL ROOMS</b>		<b>8</b>	<b>10</b>	<b>18</b>

Exhibit B

("Operational Understandings")

This list is intended to be illustrative and not exhaustive.

1. **Notice of School Closures.** The EAA shall notify the District of any impending unscheduled school closures as soon as possible and, in any event, no later than three hours prior to the start of school on the affected date. Such notice shall be provided to the District to Chief Operating Officer at (313) 318-9642 and by email at [mark.schrupp@detroitk12.org](mailto:mark.schrupp@detroitk12.org); and to Wilma Taylor-Costen, at (313) 303-0257, and by email at [wilma.taylor-costen@detroitk12.org](mailto:wilma.taylor-costen@detroitk12.org).
2. **Check-In Procedures.** Each day, the Pre-Kindergarten Program Supervisor, shall inform the principal of the EAA of any absences of the regularly scheduled staff to be utilized by the EAA in the event of an emergency. All visitors and non-regularly scheduled staff, including, but not limited to, social workers, therapists, and instructional specialists, to the Pre-Kindergarten Facilities shall report to main office the EAA prior to proceeding to the Pre-Kindergarten Facilities. The District will be responsible for providing and notifying a substitute employee to report to work in the event of an absence.
3. **Fire Drills and Emergencies.** The staff and students of the Pre-Kindergarten Facilities shall follow all fire drills and emergencies procedures of the EAA.
4. **Uniforms.** The District agrees to request that the parents of students follow the EAA's uniform requirements for the students.
5. **Enrollment.** The District shall be responsible for enrollment of the students in the pre-kindergarten operations.
6. **Procedure for late pick-up of pre-kindergarten students.** In the event a parent is late picking up a student a DPS teacher will remain with the student and notify the Program Supervisor of the late pick up.
7. **Thirty-five weeks and hours of operation.** The EAA acknowledges the District and Pre-Kindergarten Facilities must operate for 35 weeks to be eligible for funding. Accordingly, the EAA agrees to provide access to the Pre-Kindergarten Facilities, even if the EAA is closed so that the District can satisfy its funding eligibility. In addition, the EAA understands and agrees that the District will operate Pre-Kindergarten Facilities according to the Detroit Public Schools' Bell Schedule of seven (7) and ten (10) minutes.

# Education Achievement Authority of Michigan

Equity. Choice. Reinvention.

## **RESOLUTION 2012-48 APPROVAL OF THE MULTI-PARTY AGREEMENT RESENDES DESIGN GROUP AND JENKINS CONSTRUCTION FOR THE EMERGENCY BUILDING CODE COMPLIANCE UPGRADES**

The Executive Committee of the Education Achievement Authority resolves:

1. That it is within the duty and responsibility of the EAA to provide a safe and secure environment for the students who attend schools within the District;
2. That the EAA requested inspections by the State of Michigan, Department of Licensing and Regulatory Affairs, Bureau of Fire Services, Fire Marshall Division to determine the condition and safety of the facilities that the EAA would be assuming control over;
3. That the inspections of the State of Michigan identified numerous fire safety violations which were unforeseen due to the timing of the EAA's possession of the facilities and directly impacted the health, safety, and welfare of EAA students and staff;
4. That the aforementioned violations and general conditions of the facilities presented a state of emergency which must be addressed prior to the beginning of the school year;
5. That the proposed contract with the Resendes Design Group, LLC and Jenkins Construction, Inc. is sufficiently narrow in scope and duration to effectively address the emergency conditions and allow the EAA to provide a safe and secure environment in which to conduct public education activities.
6. That the attached Multi-Party Agreement with Resendes Design Group, LLC and Jenkins Construction, Inc. to provide work related to the building readiness and code violation remediation, for the EAA of Michigan is approved by the Executive Committee of the Authority as the governing body of the Authority, subject to further negotiations and/or agreements between the parties;
7. That the Chancellor of the Authority is authorized to execute the Contract on behalf of the Authority, subject to the conditions set forth above;

8. That the Secretary of the Executive Committee of the Authority shall enter the terms of the Agreement in the minutes of the proceedings of the Executive Committee of the Authority.

*Certification:*

I certify that this resolution was duly adopted by the Executive Committee of the Education Achievement Authority at a properly-noticed open meeting held with a quorum present on the \_\_\_\_ day of \_\_\_\_\_.

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

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

  
\_\_\_\_\_  
Legal Counsel  
Approved as to Form



EDUCATION ACHIEVEMENT AUTHORITY of Michigan  
**EMERGENCY JUSTIFICATION FORM**

**THIS FORM MUST BE COMPLETED AND APPROVED PRIOR TO ANY PROCUREMENT**

**Purchase Order No.:** \_\_\_\_\_ **Amount:** not to exceed \$1.7 million

**Vendor Name:** Resendes Design Group, LLC and Jenkins Construction, Inc.

**Contact Information:** Francis Resendes (313) 873-3280  
Name Telephone Number

Describe the specific nature of the emergency justification for the selections of the vendor. Describe the items/services purchased, dates, costs, delivery timeframe, etc. Attach any cost comparisons, quotations, or other pertinent information: (use additional sheet if necessary)

Pursuant to MCL 380.1267 (1), this contract is being entered into based on the existence of an emergency situation that affects the life, health, safety, and general welfare of the students of the EAA. The facts that caused this emergency were an unforeseen occurrence related to the safety of the conditions of the buildings in which students are to attend classes as revealed in safety inspections of the individual facilities. These facts were not able to be reasonably remedied prior to the EAA obtaining possession of the facilities on July 1, 2012, and resulted in an exceptionally limited timeframe to make the necessary repairs prior to the commencement of the school year, thus affecting the health, safety, and welfare of students and staff of the district. The scope of this contract is limited to the necessary engineering assessments, construction, upgrades and repairs to ensure a safe and otherwise habitable environment for the students and employees of the EAA of Michigan to safely occupy the facilities upon commencement of the school year. The majority of services required under this contract shall be completed no later than September 4, 2012.

**Emergency Justification Forms must be signed by Department/Division Head Prior to Submission to the Business & Finance Department.**

Department/Division Head: Contract Price: \_\_\_\_\_

Department Head Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Deputy Chancellor, Business/Fiscal & Operation Signature: \_\_\_\_\_

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

August 3, 2012

## **Monthly Report**

FOR THE PERIOD OF JULY 1 THROUGH JULY 31, 2012

**RE: EAA Life Safety Improvements-15 Existing Detroit Public Schools**

### **Summary of Activities:**

During this period, both planning, preconstruction and construction work began. Aramark submitted for approval materials and equipment for procurement. Aramark started installation during this month. RDG and Jenkins conducted exhaustive field inspections of all State Inspector deficiency items at all schools. Consequently, several trade packages were developed for bidding and installation, which began Aug 1, 2012. The list of work items included doors / hardware, electrical, fire protection, general construction, plumbing and miscellaneous items. All activities are presently underway.

### **Schedule:**

Currently, we predict completing all schools with State Inspections prior to the official school opening date, except for long-lead items such as emergency windows and selected sprinkler improvements. Both are expected to be completed by October 10, and September 15, 2012, respectively. The attached schedule illustrates start and finish dates for the summary of activities listed above.

There are approximately ten schools scheduled for completion by August 17, they are: Bethune, Central, Denby, Ford, Law (new), Law (old), Pershing, Scott, Stewart and Trix. The remaining schools- Phoenix due on August 21, 2012, Burns and Southeastern are due to be completed on August 24, 2012. However, due to long lead items, i.e. emergency

windows, Murphy and Nolan will have all of its items completed by August 17, 2012, except for emergency windows, which are due to be completed by October 10, 2012. Additionally, all sprinkler work will be completed by September 15, 2012.

In sum, State Inspection can start after August 17, 2012 and continue throughout the end of August for all items except emergency windows and sprinklers. See Project schedule: each school's expected construction finish date is listed.

**Cost:**

We have a not-to-exceed project budget amount of \$3.0 million. The estimated amount to date is within \$2.83 million with professional fees and reimbursables. This cost reflects material and labor for eliminating the life safety deficiencies identified by the State Fire Marshal.

We anticipate actual cost to be within the targeted cost of \$3.0 million not-to-exceed. Presently, there are no change orders. See attached Project cost spreadsheet.

**Team Management:**

The Team consists of Aramark, RDG and Jenkins. The work is apportioned and is based on work that needs design and engineering versus work needing only repair and or replacement. All work needing architectural or engineering input is assigned to RDG and Jenkins. The remaining work is assigned to Aramark. Additionally, RDG will serve as oversight with program management responsibilities. Both Aramark and Jenkins will provide construction management and installation services.

**Summary:**

The project is progressing well. Most schools will be available for State Marshal's inspection after August 17, 2012. See the attached schedule for a work plan arranged on a school by school basis.

Currently, the project is within the not-to-exceed amount of \$3.0 million, with a current total project cost of \$2.83 million.

EAA Fire Protection Discrepancy Report  
PROJECT WORKSHEET- BUDGET SUMMARY

CATEGORY	MILITARY	BURRE	CENTRAL	DENNY	FORD	LAWDS	LAWR	MUMFORD	MURPHY	JACKAL	PERSHING	PHOENIX	SULLY	SOEASTERN	STEWART	TRIX	TOTALS
Administrative	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Architectural	\$5,672	\$1,625	\$1,408	\$1,192	\$20,690	\$5,216	\$1,776	\$51,201	\$94,000	\$1,886	\$96,971	\$1,117	\$1,117	\$25,891	\$28,529	\$0	\$0
Doors & Hardware	\$1,000	\$22,000	\$110,000	\$180,000	\$58,000	\$14,000	\$60,000	\$30,000	\$10,000	\$14,000	\$265,000	\$110,000	\$21,000	\$40,000	\$51,000	\$35,000	\$140,282
Electrical	\$0	\$1,200	\$850	\$500	\$650	\$0	\$600	\$0	\$0	\$0	\$1,000	\$2,200	\$300	\$1,600	\$2,800	\$1,400	\$985,000
Elevators	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$15,850
Fire Protection	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
General Construction	\$1,200	\$3,250	\$2,300	\$7,200	\$500	\$500	\$500	\$0	\$0	\$2,500	\$7,000	\$7,000	\$1,750	\$2,975	\$875	\$1,475	\$19,500
Heat/Mechanical	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Locks & Keys	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Miscellaneous	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Plumbing	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
<b>SUBTOTAL</b>	<b>\$10,972</b>	<b>\$27,975</b>	<b>\$127,730</b>	<b>\$310,989</b>	<b>\$61,090</b>	<b>\$21,566</b>	<b>\$74,651</b>	<b>\$543,641</b>	<b>\$210,123</b>	<b>\$378,760</b>	<b>\$209,071</b>	<b>\$36,867</b>	<b>\$32,214</b>	<b>\$301,866</b>	<b>\$77,204</b>	<b>\$77,204</b>	<b>\$2,439,732</b>
Contingency @ 10%	\$1,097	\$2,797	\$12,773	\$31,098	\$6,109	\$2,157	\$7,465	\$54,364	\$21,012	\$37,876	\$20,907	\$3,867	\$3,214	\$30,187	\$7,720	\$7,720	\$243,972
Professional Fees																	
Reimbursables																	
C.O.#	\$12,069	\$30,772	\$140,503	\$342,081	\$89,199	\$23,722	\$62,337	\$598,005	\$231,135	\$411,158	\$229,978	\$40,334	\$332,052	\$35,436	\$84,925	\$84,925	\$2,833,705
<b>TOTALS</b>																	

The total project cost includes cost only for State Fire Marshal deficiency items.  
There are no Change orders to date.  
Reimbursables shall not exceed \$10,000.





**FACILITY NAME:**

**ADDRESS:**

**PROJECT MANAGER:**

Bethune Academy  
 8145 Puritan Street, Detroit, Michigan 48238  
 John W. Parker III  
 PROJECT: 108132

CORRECTION ORDER DESCRIPTION	REF. NO.	LOCATION		COMPLIANCE Code No.	WORK ASSIGNMENT		DURATION		
		Floor	Area/Room		Work Order	Contractor	Days	Start	Finish
<b>ADMINISTRATIVE</b>									
Fire alarm panel inspection & test records	20			NFPA 13	DPS	Cintas Fire	1	11-Jul-12	11-Jul-12
Fire sprinkler inspection & test records	21			NFPA 25	DPS	Cintas Fire	1	11-Jul-12	11-Jul-12
Fire pump inspection & test records									
Fire extinguisher inspection & test records	18			NFPA 10	DPS	Cintas Fire	1	10-Jul-12	10-Jul-12
Kitchen hood suppression inspect/test records	19			NFPA 96	DPS	Cintas Fire		NON-U/L	
Record of fire & tornado drills	23			1-7.1, 10-7.1	DPS	DPS			
Hose cabinet inspection & test records	24			NFPA 14	108132-FP	Cintas Fire	1	13-Aug-12	13-Aug-12
Emergency lighting inspection & test records	22				108132-GC	LaFave Smith			
No fire rating data for curtains	25	All	Miscellaneous	11-3.3					
<b>ARCHITECT/DESIGN ENGINEER</b>									
Unsealed ceiling penetrations	1	1st	Custodial 130A	NFPA 11-3.2		Jenkins	6	3-Aug-12	10-Aug-12
Sprinkler heads painted	2	1st	Workrm 124A	7-7		Cintas	6	3-Aug-12	10-Aug-12
Room not sprinkler protected/separated	7	1st	Kitchen	11-3.2		Jenkins	8	7-Aug-12	17-Aug-12
Unsealed ceiling penetrations	9	1st	Custodial 113A	11-3.2		Jenkins	6	3-Aug-12	10-Aug-12
Unsealed ceiling penetrations	12		Custodial/IT	11-3.2		Jenkins	6	3-Aug-12	10-Aug-12
<b>DOORS &amp; HARDWARE</b>									
Door does not self-close and latch	4	1st	Room 124A	5-2.1.8	108132-DH	IDN Door/Hrdwre	5	13-Aug-12	17-Aug-12
Door does not self-close and latch	10	1st	Custodial 113A	5-2.1.8	108132-DH	IDN Door/Hrdwre	5	13-Aug-12	17-Aug-12
Door is not self-closing	13	2nd	Custodial 207A	5-2.1.8	108132-DH	IDN Door/Hrdwre	5	13-Aug-12	17-Aug-12
Door is not self-closing	16	2nd	Storage 207C	5-2.1.8	108132-DH	IDN Door/Hrdwre	5	13-Aug-12	17-Aug-12
Door is not self-closing	17	1st	Storage 105	5-2.1.8	108132-DH	IDN Door/Hrdwre	5	13-Aug-12	17-Aug-12
<b>ELECTRICAL</b>									
Fire sprinkler obstructed by light fixture	14		Custodial/IT	7-7.1.1	108132-E	Experience Elec	1	1-Aug-12	1-Aug-12
<b>ELEVATORS</b>									

<b>FIRE PROTECTION</b>										
Fire rated shutters not functioning	5				11-1.6, 26-1.6	108132-FP	Cintas Fire	2	14-Aug-12	15-Aug-12
Required number of spare sprinkler heads	6				7-7	108132-FP	Cintas Fire	2	14-Aug-12	15-Aug-12
<b>GENERAL CONSTRUCTION</b>										
Emergency escape windows screwed shut	3	1st	Miscellaneous		11-2.11.1	108132-GC	LaFave Smith	1	7-Aug-12	7-Aug-12
Emerg. escape windows not labeled	3	1st	Miscellaneous			108132-GC	LaFave Smith	1	7-Aug-12	7-Aug-12
<b>HVAC/MECHANICAL</b>										
<b>LOCKS &amp; KEYS</b>										





**ELEVATORS**

**FIRE PROTECTION**

Only two (2) dry chemical extinguishers in bldg

5

NFPA 10

DPS

Cintas Fire

1

10-Jul-12

10-Jul-12

**GENERAL CONSTRUCTION**

Emergency escape windows screwed shut

3

2nd

Room 206

11-2.11

108133-GC

LaFave Smith

1

6-Aug-12

6-Aug-12

Flat top lockers installed in corridor

12

Corridor South

2-2

Railing missing from Gym

15

1st

Stairwell South

11-2.2.3, 5-2.2

108133-GC

LaFave Smith

1

6-Aug-12

6-Aug-12

Emergency escape window difficult to open

18

1st

Room 112

11-2.11.1

108133-GC

LaFave Smith

1

6-Aug-12

6-Aug-12

Wood partition paneling no fire rating data

20

1st

Asst' Principal

11-3.3, 6-5

108133-GC

LaFave Smith

1

6-Aug-12

6-Aug-12

**HVAC/MECHANICAL**

**LOCKS & KEYS**











**DOORS & HARDWARE**

Doors non positive latching	2	All	Stairwells	11-3.1, 5-1.3, 6-2.4	108107-DH	IDN Door/Hrdwre	20	23-Jul-12	17-Aug-12
No fire rated glazing in stairwell doors	3	All	Stairwells	11-3.1, 5-1.3, 6-2.4	108107-DH	IDN Door/Hrdwre	20	23-Jul-12	17-Aug-12
Doors do not self-close and latch	4	All	Stairwells	11-3.1, 6-2.4	108107-DH	IDN Door/Hrdwre	20	23-Jul-12	17-Aug-12
Drop leg door holders attached to doors	5	All	Stairwells	11-3.1	108107-DH	IDN Door/Hrdwre	20	23-Jul-12	17-Aug-12
Door does not latch on storage room	22	3rd	By Track	11-3.2	108107-DH	IDN Door/Hrdwre	20	23-Jul-12	17-Aug-12
Unapproved door hold-open device	23	3rd	Music Storage	11-3.2	108107-DH	IDN Door/Hrdwre	20	23-Jul-12	17-Aug-12
Door does not latch on storage room	24	3rd	Music Storage	11-3.2	108107-DH	IDN Door/Hrdwre	20	23-Jul-12	17-Aug-12
Door does not latch on storage room	25	3rd	Room 300C	11-3.2	108107-DH	IDN Door/Hrdwre	20	23-Jul-12	17-Aug-12
Door does not latch	29	2nd	Telephone Rm	11-3.2	108107-DH	IDN Door/Hrdwre	20	23-Jul-12	17-Aug-12
Door does not latch	44	1st	Room 121C	11-3.6.1 (5)	108107-DH	IDN Door/Hrdwre	20	23-Jul-12	17-Aug-12

**ELECTRICAL**

Exposed wires in interior stairwell for divider	20	3rd	Gymnasium	2-2	108107-E	Experience Elec	1	14-Aug-12	14-Aug-12
IT wire hanging/penetrating wall by ROTC range	45	1st	Corridor	11-3.6.1 (5)	108107-E	Experience Elec	1	14-Aug-12	14-Aug-12

**ELEVATORS**

**FIRE PROTECTION**

Fire extinguisher cabinet glass breaking means	10	All	All	NFPA 10	108107-FP	Cintas Fire	1	15-Aug-12	15-Aug-12
Install fire alarm audiovisual device	18	3rd	Computer Stor.	05-27	108107-FP	Cintas Fire	1	15-Aug-12	15-Aug-12
Missing fire sprinkler guard	19	3rd	ROTC	NFPA 13, 25	108107-FP	Cintas Fire	1	15-Aug-12	15-Aug-12
No fire detection device	28	2nd	Library	11-2.5.2	108107-FP	Cintas Fire	1	15-Aug-12	15-Aug-12
No fire detection device	35	2nd	By Room 226	11-2.5.2	108107-FP	Cintas Fire	1	15-Aug-12	15-Aug-12
Fire alarm panel showing trouble signals	39	1st	Main Office	11-3.4	DPS	LaFave Smith	1	15-Aug-12	15-Aug-12

**GENERAL CONSTRUCTION**

Secure all cross corridor gates	9	All	Corridors	5-4, 5-5	108107-GC	LaFave Smith	1	8-Aug-12	8-Aug-12
No guardrails above tunnel	15	1st	Auditorium	9-2.11	108107-GC	LaFave Smith	1	8-Aug-12	8-Aug-12
Panel not installed per code	26	2nd	Home Ec.	2-2	108107-GC	LaFave Smith	1	8-Aug-12	8-Aug-12
Wood paneling Jury box installed	27	2nd	Courtroom	2-2	108107-GC	LaFave Smith	1	8-Aug-12	8-Aug-12
Acetylene tank free standing	46	1st	ROTC Mech	2-2	108107-GC	LaFave Smith	1	8-Aug-12	8-Aug-12
Emergency escape window screwed shut	42	1st	Room 113E	11-2.11.1	108107-GC	LaFave Smith	1	8-Aug-12	8-Aug-12



**FACILITY NAME:**  
**ADDRESS:**  
**PROJECT MANAGER:**

Henry Ford High School  
 20000 Evergreen Road, Detroit, Michigan 48219  
 John W. Parker III

**PROJECT:** 108134

CORRECTION ORDER DESCRIPTION	REF. NO.	LOCATION		COMPLIANCE Code No.	WORK ASSIGNMENT		DURATION		
		Floor	Area/Room		Work Order	Contractor	Days	Start	Finish
<b>ADMINISTRATIVE</b>									
Fire extinguisher inspection & test records	30	All	All		DPS	Cintas Fire	1	12-Jul-12	12-Jul-12
Kitchen hood suppression inspect/test records	31			NFPA 96	DPS	Adams Fire			
Fire alarm panel inspection & test records	32			NFPA 13	DPS	Cintas Fire	1	6-Jul-12	6-Jul-12
Fire sprinkler inspection & test records	33			NFPA 25	DPS	Cintas Fire	1	6-Jul-12	6-Jul-12
Fire pump inspection & test records	34				108134-GC	LaFave Smith			
Emergency lighting inspection & test records	35				108134-GC	LaFave Smith			
Record of fire & tornado drills	36				DPS	DPS			
Hose cabinet inspection & test records	37			NFPA 14	108134-FP	Cintas Fire	1	13-Aug-12	13-Aug-12
No fire rating data for curtains	38	1st	Stage						
<b>ARCHITECT/DESIGN ENGINEER</b>									
Room not sprinkler protected/used for storage	7	3rd	Room 307A	11-3.2.1		Jenkins	9	6-Aug-12	17-Aug-12
Unsealed wall penetrations in storage room	8	3rd	By South Stairs	11-3.2.1		Jenkins	5	3-Aug-12	10-Aug-12
Room not sprinkler protected/required separation	9	3rd	By Room 313	11-3.2.1		Jenkins	9	6-Aug-12	17-Aug-12
Room not sprinkler protected/required separation	10	3rd	Storage	11-3.2.1		Jenkins	9	6-Aug-12	17-Aug-12
Room not sprinkler protected/required separation	11	3rd	IDF-4 Storage	11-3.2.1		Jenkins	9	6-Aug-12	17-Aug-12
Unsealed wall and ceiling penetrations	12	3rd	MDF Room	11-3.2		Jenkins	9	3-Aug-12	10-Aug-12
Unsealed floor and ceiling penetrations	14	2nd	Janitor Room 5	11-3.2		Jenkins	9	3-Aug-12	10-Aug-12
Unsealed penetration in exit door/Green Tech	18		Stairwell 13	6-2.4		Jenkins	9	3-Aug-12	10-Aug-12
Unsealed ceiling penetrations	20	1st	Storage 125	11-3.2		Jenkins	9	3-Aug-12	10-Aug-12
Sprinkler head painted	25-Jan	1st	Kitchen	7-7		Jenkins	N/A	6-Aug-12	10-Aug-12
<b>DOORS &amp; HARDWARE</b>									
Door does not self-close or latch	1		Book Store	5-2.1.8	108134-DH	IDN Door/Hrdwre	10	30-Jul-12	10-Aug-12
Doors do not self-closing, latch and/or missing	2		Stairwells	5-1.3.2, 5-2.2.5.1	108134-DH	IDN Door/Hrdwre	10	30-Jul-12	10-Aug-12
Door windows broken/missing and do not latch	3		Stairwell 5		108134-DH	IDN Door/Hrdwre	10	30-Jul-12	10-Aug-12
Doors do not latch	4		Stairwell 3		108134-DH	IDN Door/Hrdwre	10	30-Jul-12	10-Aug-12
Fire door glass broken	5		By Bridge		108134-DH	IDN Door/Hrdwre	10	30-Jul-12	10-Aug-12
Door does not self-close or latch	6		Janitor BS-LL	5-2.1.8	108134-DH	IDN Door/Hrdwre	10	30-Jul-12	10-Aug-12
Door closer inoperative	13	2nd	Room 210X	5-2.1.8	108134-DH	IDN Door/Hrdwre	10	30-Jul-12	10-Aug-12
Exit door would not open when tested/Green Tech	17		Stairwell 13	5-2.1.5.1	108134-DH	IDN Door/Hrdwre	10	30-Jul-12	10-Aug-12
Door closer inoperative	21	1st	Mech 125	5-2.1.8	108134-DH	IDN Door/Hrdwre	10	30-Jul-12	10-Aug-12
Door closer inoperative	22	1st	Mech 21	5-2.1.8	108134-DH	IDN Door/Hrdwre	10	30-Jul-12	10-Aug-12
Door does not self-close or latch	28	1st	Loading Dock	5-2.1.8	108134-DH	IDN Door/Hrdwre	10	30-Jul-12	10-Aug-12
Door does not latch to storage room	29	1st	By Room 103		108134-DH	IDN Door/Hrdwre	10	30-Jul-12	10-Aug-12



**LOCKS & KEYS**

Provide access for fire inspection/lock broken

15

2nd

Storage 224

**MISCELLANEOUS**

Combustible storage in mechanical room

19

1st

Room 25

2-2

Aramark Staff

10

6-Aug-12

17-Aug-12

Egress doors padlocked

23

1st

Courtroom

5-2.1.8

Aramark Staff

10

6-Aug-12

17-Aug-12

Combustible storage in mechanical room

26

1st

Mech 11

2-2

Aramark Staff

10

6-Aug-12

17-Aug-12

**PLUMBING**







**FACILITY NAME:**  
**ADDRESS:**  
**PROJECT MANAGER:**

**Marion Law Middle (Building 2)**  
**19490 Carrie, Detroit, Michigan 48234**  
**John W. Parker III**

**PROJECT: 108110**

CORRECTION ORDER DESCRIPTION	REF. NO.	LOCATION		COMPLIANCE Code No.	WORK ASSIGNMENT		DURATION		
		Floor	Area/Room		Work Order	Contractor	Days	Start	Finish
<b>ADMINISTRATIVE</b>									
Fire alarm panel inspection & test records	22			NFPA 13	DPS	Cintas Fire	1	6-Jul-12	6-Jul-12
Fire sprinkler inspection & test records	23			NFPA 25	DPS	Cintas Fire	1	6-Jul-12	6-Jul-12
Fire pump inspection & test records	24				108110-GC	LaFave Smith			
Fire extinguisher inspection & test records	25				DPS	Cintas Fire	1	6-Jul-12	6-Jul-12
Kitchen hood suppression inspect/test records	26			NFPA 96	DPS	Cintas Fire	1	6-Jul-12	6-Jul-12
Record of fire & tornado drills	27				DPS	DPS			
Hose cabinet inspection & test records	28			NFPA 14	108110-FP	Cintas Fire	1	13-Aug-12	13-Aug-12
<b>ARCHITECT/DESIGN ENGINEER</b>									
All custodial closets, Storage and Hazardous Rooms shall be sprinkler protected.	11	All	Miscellaneous	11-3.2		Jenkins	9	6-Aug-12	17-Aug-12
Room not sprinkler protected does not meet separation requirements	14	1st	Kitchen Stor.	11-3.2		Jenkins	9	6-Aug-12	17-Aug-12
Unsealed wall penetration above exit door #4	19	1st	Auditorium	11-3.2		Jenkins	5	3-Aug-12	10-Aug-12
<b>DOORS &amp; HARDWARE</b>									
Install self-closing devices	11	All	Hazardous	11-3.2	108110-DH	IDN Door/Hrdwre	10	13-Aug-12	24-Aug-12
Door does not close	15	1st	Stairs Exit 3	11-3.1	108110-DH	IDN Door/Hrdwre	10	13-Aug-12	24-Aug-12
Doors damaged and do not close or latch	20	1st	Gym	11-3.2	108110-DH	IDN Door/Hrdwre	10	13-Aug-12	24-Aug-12
Remove door hold open devices	21	All	Miscellaneous	11-3.2	108110-DH	IDN Door/Hrdwre	10	13-Aug-12	24-Aug-12





FACILITY NAME:

Murphy Charter

ADDRESS:

23901 Fenkel Street, Detroit, Michigan 48223

PROJECT MANAGER:

John W. Parker III

PROJECT: 108135

CORRECTION ORDER DESCRIPTION	REF. NO.	LOCATION		COMPLIANCE Code No.	WORK ASSIGNMENT		DURATION		
		Floor	Area/Room		Work Order	Contractor	Days	Start	Finish
<b>ADMINISTRATIVE</b>									
Fire alarm panel inspection & test records	30			NFPA 13	DPS	Cintas Fire	1	2-Jul-12	2-Jul-12
Fire sprinkler inspection & test records	30			NFPA 25	DPS	Cintas Fire	1	2-Jul-12	2-Jul-12
Fire pump inspection & test records									
Fire extinguisher inspection & test records	5,6,28			NFPA 10	DPS	Cintas Fire	1	2-Jul-12	2-Jul-12
Kitchen hood suppression inspection/test records									
Record of fire & tornado drills	31			1-7.1, 10-7.1	DPS	DPS			
Hose cabinet inspection & test records									
Emergency lighting inspection & test records									
<b>ARCHITECT/DESIGN ENGINEER</b>									
No kitchen hood fire suppression system	3	1st	Kitchen	11-3.2.2				6-Aug-12	17-Aug-12
Awning/Hopper type windows not in compliance	10	1st	All	11-2.11.1				15-Oct-12	17-Oct-12
Sprinkler test valve handle/sign missing	22	1st		NFPA 25				3-Aug-12	10-Aug-12
<b>DOORS &amp; HARDWARE</b>									
Door held open with self-closing device	7	1st	Lunch Room	11-3.2, 2-2	108135-DH	IDN Door/Hrdwre	5	30-Jul-12	3-Aug-12
Door does not latch/corridor	8	1st	Music/Vocal	11-3.6	108135-DH	IDN Door/Hrdwre	5	30-Jul-12	3-Aug-12
Door does not latch/corridor	12	1st	Boiler Room	11-3.2	108135-DH	IDN Door/Hrdwre	5	30-Jul-12	3-Aug-12
Door closers inoperative/cross corridor	15	1st	By Principal	NFPA 80	108135-DH	IDN Door/Hrdwre	5	30-Jul-12	3-Aug-12
Exit doors difficult to open	16	1st	By Room 107	5-1.9, 2-4	108135-DH	IDN Door/Hrdwre	5	30-Jul-12	3-Aug-12
Door does not latch	17	1st	Cust by Library	11-3.2	108135-DH	IDN Door/Hrdwre	5	30-Jul-12	3-Aug-12
Door does not open to gated courtyard	19	1st	By Computer	11-2, 5-1.9	108135-DH	IDN Door/Hrdwre	5	30-Jul-12	3-Aug-12
Exit door difficult to open to playground	20	1st	East	11-2, 5-1.9	108135-DH	IDN Door/Hrdwre	5	30-Jul-12	3-Aug-12
Door binds and does not latch	21	1st	Voc. Custodial	11-3.2	108135-DH	IDN Door/Hrdwre	5	30-Jul-12	3-Aug-12
Exit doors difficult to open	29	1st	Lunch West	11-2	108135-DH	IDN Door/Hrdwre	5	30-Jul-12	3-Aug-12
<b>ELECTRICAL</b>									
Exposed wires in ceiling junction box	13	1st	Parent Room	2-2	108135-E	Experience Elec	1	31-Jul-12	31-Jul-12
No illuminated exit sign	25	1st	By Computer	11-2.10, 5-10	108135-E	Experience Elec	1	31-Jul-12	31-Jul-12
No illuminated directional exit sign/corridor	26	1st	Gym East	11-2.10, 5-10	108135-E	Experience Elec	1	31-Jul-12	31-Jul-12
Damaged emergency exit sign/corridor	27	1st	Gym South	11-2.10	108135-E	Experience Elec	1	31-Jul-12	31-Jul-12











**FACILITY NAME:**  
**ADDRESS:**  
**PROJECT MANAGER:**

**Pershing High School**  
**18875 Ryan Road, Detroit, Michigan 48221**  
**John W. Parker III**

**PROJECT: 108128**

CORRECTION ORDER DESCRIPTION	REF. NO.	LOCATION		COMPLIANCE Code No.	WORK ASSIGNMENT		DURATION		
		Floor	Area/Room		Work Order	Contractor	Days	Start	Finish
<b>ADMINISTRATIVE</b>									
Fire alarm panel inspection & test records	55			NFPA 13	DPS	LaFave Smith	1	5-Jul-12	5-Jul-12
Fire sprinkler inspection & test records	56			NFPA 25	DPS	Cintas Fire	1	5-Jul-12	5-Jul-12
Fire pump inspection & test records	57				108128-GC	LaFave Smith			
Fire extinguisher inspection & test records	58			NFPA 10	DPS	Cintas Fire	1	12-Jul-12	12-Jul-12
Kitchen hood suppression inspect/test records	59			NFPA 96	DPS	Cintas Fire	1	12-Jul-12	12-Jul-12
Record of fire & tornado drills	60			1-7.1, 10-7.1	DPS	DPS			
Hose cabinet inspection & test records	61			NFPA 14	108128-FP	Cintas Fire	1	13-Aug-12	13-Aug-12
Emergency lighting inspection & test records	62				108128-GC	LaFave Smith			
<b>ARCHITECT/DESIGN ENGINEER</b>									
Separate from corridor areas with 1 hr. rating	2		Science Rooms	11-3		Jenkins		6-Aug-12	17-Aug-12
Unsealed wall penetration/janitor closet	8	2nd	By Stairwell	11-3.2		Jenkins		3-Aug-12	10-Aug-12
Unsealed wall penetrations above doors	11		Stairwell 6	11-3.2		Jenkins		3-Aug-12	10-Aug-12
Unsealed wall penetrations	17	2nd	Stairwell 5	11-3		Jenkins		3-Aug-12	10-Aug-12
Sprinkler head painted janitor closet	19	2nd	By Stairwell 3	7-7		Jenkins		3-Aug-12	10-Aug-12
Unsealed wall and ceiling penetrations	20	2nd	By South Stair	11-3		Jenkins		3-Aug-12	10-Aug-12
Unsealed wall penetration	21	2nd	Office 202	11-3		Jenkins		3-Aug-12	10-Aug-12
Room not sprinkler protected	24	3rd	Storage 316	11-3		Jenkins		3-Aug-12	10-Aug-12
Ceiling/floor penetrations/unapproved caulk seal	28	3rd	Storage 301A	11-3.2		Jenkins		6-Aug-12	17-Aug-12
Painted sprinkler heads throughout building	29	All	Miscellaneous	7-7		Jenkins		3-Aug-12	10-Aug-12
Unsealed wall penetrations	33	1st	Stage Storage	11-3.2		Jenkins		3-Aug-12	10-Aug-12
Unsealed wall penetrations	36	1st	Stage Stairwell	6-2.4		Jenkins		3-Aug-12	10-Aug-12
Unsealed wall penetrations	37	1st	Fan Room 3&4			Jenkins		3-Aug-12	10-Aug-12
Sprinkler and/or separation documentation	37	1st	Fan Room 3&4	11-3		Jenkins		3-Aug-12	10-Aug-12
Classrooms have only one exit	40	Bsmt	ROTC	3.11.2		Jenkins		N/A	
Space must meet egress requirements if in use	41	1st	Pool/Weight	5-2.1.7		Jenkins		*need clarification	
Corridor not separated/sprinkler protected	42	1st	B&G Locker	11-3.2		Jenkins		*need clarification	
Does not meet intervening space requirements	44	1st	Band Exit			Jenkins		*need clarification	
Sprinkler ctrl valve not electronically supervised	46	1st	By Room 153	7-7		Jenkins		6-Aug-12	17-Aug-12
Unsealed wall penetrations in corridor	50	1st	Office	11-3.2		Jenkins		3-Aug-12	10-Aug-12
Sprinkler heads painted	52	1st	Kitchen	7-7		Jenkins		3-Aug-12	10-Aug-12





**FACILITY NAME:**

**ADDRESS:**

**PROJECT MANAGER:**

Phoenix Academy

7735 Lane Street, Detroit, Michigan 48209

John W. Parker III

**PROJECT: 108136**

CORRECTION ORDER DESCRIPTION	REF. NO.	LOCATION		COMPLIANCE Code No.	WORK ASSIGNMENT		DURATION		
		Floor	Area/Room		Work Order	Contractor	Days	Start	Finish
<b>ADMINISTRATIVE</b>									
Fire alarm panel inspection & test records	60			NFPA 13	DPS	Cintas Fire	1	11-Jul-12	11-Jul-12
Fire sprinkler inspection & test records	61			NFPA 25	DPS	Cintas Fire	1	11-Jul-12	11-Jul-12
Fire pump inspection & test records									
Fire extinguisher inspection & test records	59			NFPA 10	DPS	Cintas Fire	1	11-Jul-12	11-Jul-12
Kitchen hood suppression inspection/test records									
Record of fire & tornado drills	63			1-7.1, 10-7.1	DPS				
Hose cabinet inspection & test records									
Emergency lighting inspection & test records	62				108136-GC	LaFave Smith			
<b>ARCHITECT/DESIGN ENGINEER</b>									
Sprinkler head painted	2	3rd	Room 308A	7-7		Jenkins		3-Aug-12	10-Aug-12
Sprinkler head painted	3	3rd	Janitor 308B	7-7		Jenkins		3-Aug-12	10-Aug-12
Storage rooms not sprinkler protected	7	3rd	Auditorium	26-3.2.1		Jenkins		6-Aug-12	17-Aug-12
Sprinkler head painted	10	2nd	Office RR	7-7		Jenkins		3-Aug-12	10-Aug-12
Sprinkler head painted	15	2nd	Janitor 210B	7-7		Jenkins		3-Aug-12	10-Aug-12
Room not sprinkler protected/separated	19	1st	Janitor/Storage	26-3.2.1		Jenkins		6-Aug-12	17-Aug-12
Sprinkler head painted	20	1st	Old Custodial	7-7		Jenkins		3-Aug-12	10-Aug-12
Sprinkler heads installed on pendant position	22	1st	Room 106	7-7		Jenkins		6-Aug-12	17-Aug-12
Sprinkler heads painted	23	1st	Room 106	7-7		Jenkins		3-Aug-12	10-Aug-12
Unsealed wall penetration corridor above locker	27		By Boys RR	7-29,1907		Jenkins		3-Aug-12	10-Aug-12
Unsealed wall penetrations	30	1st	Miscellaneous	11-3.2		Jenkins		3-Aug-12	10-Aug-12
Unsealed door penetrations	32		Fan Room	11-3		Jenkins		3-Aug-12	10-Aug-12
Room not sprinkler protected/separated	33		Fan Room 3	26-3.2.1		Jenkins		3-Aug-12	10-Aug-12
Sprinkler heads painted/taped	34	1st	Room 104	7-7		Jenkins		6-Aug-12	17-Aug-12
Unsealed wall penetrations above door	38	1st	Stairwell 3	11-3		Jenkins		3-Aug-12	10-Aug-12
Unsealed penetrations/not sprinkler protected	40	1st	Egress Corr.			Jenkins		3-Aug-12	10-Aug-12
Storage room not sprinkler protected	41		Storage	26-3.2.1		Jenkins		6-Aug-12	17-Aug-12
Middle of exit corridor narrows to 32" opening	43	1st	Rear Exit Corr.	11-2;3.2.1		Jenkins		6-Aug-12	17-Aug-12
Storage room not sprinkler protected	46	1st	Loading Dock	7-7		Jenkins		6-Aug-12	17-Aug-12
Sprinkler heads painted/corroded	47	1st	Kitchen	7-7		Jenkins		3-Aug-12	10-Aug-12
Unsealed penetrations	53	1st	Dock Electrical	2-2		Jenkins		3-Aug-12	10-Aug-12
unsealed door penetrations	55	1st	Custodial	11-3		Jenkins		3-Aug-12	10-Aug-12





**FACILITY NAME:**

**ADDRESS:**

**PROJECT MANAGER:**

Brenda Scott Academy

18400 Hoover, Detroit, Michigan 48205

John W. Parker III

**PROJECT:** 108109

CORRECTION ORDER DESCRIPTION	REF. NO.	LOCATION		COMPLIANCE Code No.	WORK ASSIGNMENT		DURATION		
		Floor	Area/Room		Work Order	Contractor	Days	Start	Finish
<b>ADMINISTRATIVE</b>									
Fire alarm panel inspection & test records	5			NFPA 13	DPS	Cintas Fire	1	5-Jul-12	5-Jul-12
Fire sprinkler inspection & test records	5			NFPA 25	DPS	Cintas Fire	1	6-Jul-12	6-Jul-12
Fire pump inspection & test records									
Fire extinguisher inspection & test records	13			NFPA 10	DPS	Cintas Fire	1	6-Jul-12	6-Jul-12
Kitchen hood suppression inspect/test records	5			NFPA 96	DPS	Cintas Fire	1	6-Jul-12	6-Jul-12
Record of fire & tornado drills				1-7.1, 10-7.1		DPS			
Hose cabinet inspection & test records									
Emergency lighting inspection & test records									
Emergency generator inspection & test records	5			NFPA 110	108109-GC	LaFave Smith			
Fire damper inspection & test records	18	All	Miscellaneous	NFPA 101, 90A, 90B	108109-GC	LaFave Smith			
No fire rating data for curtains	26	1st		10-3.3, 6-5					
<b>ARCHITECT/DESIGN ENGINEER</b>									
Wall penetrations in electrical room	11	1st	By Room 111	10-3.6		Jenkins		3-Aug-12	10-Aug-12
Wall penetrations in mechanical room	12	1st	By Room 111	10-3.6		Jenkins		3-Aug-12	10-Aug-12
Wall penetrations or fire stopped	14	1st	Rotunda	10-3.7		Jenkins		3-Aug-12	10-Aug-12
Wall and ceiling penetrations in electrical room	21	1st	Girls Locker	2-2		Jenkins		3-Aug-12	10-Aug-12
Rust covered fire sprinkler head	27	1st	Kitchen Cooler	25		Jenkins		3-Aug-12	10-Aug-12
<b>DOORS &amp; HARDWARE</b>									
Fire door gap greater than 1/8" when closed	15	1st	Rotunda	NFPA 80	108109-DH	IDN Door/Hrdwre	14	24-Jul-12	17-Aug-12
No safety rated glazing above fire doors	16	1st	Rotunda	NFPA 80	108109-DH	IDN Door/Hrdwre	14	24-Jul-12	17-Aug-12
Doors do not latch or operate freely	17	1st	Rotunda	NFPA 80	108109-DH	IDN Door/Hrdwre	14	24-Jul-12	17-Aug-12
Door does not close or latch	29	1st	By Room 101	5-2	108109-DH	IDN Door/Hrdwre	14	24-Jul-12	17-Aug-12
Doors do not close or latch	30	2nd	Stairwell North	5-2	108109-DH	IDN Door/Hrdwre	14	24-Jul-12	17-Aug-12
Doors do not close or latch	32	2nd	By Lounge	5-2.3	108109-DH	IDN Door/Hrdwre	14	24-Jul-12	17-Aug-12
Doors do not close or latch	33	2nd	Rotunda Stairs	5-2	108109-DH	IDN Door/Hrdwre	14	24-Jul-12	17-Aug-12
Doors do not close or latch	35	3rd	Rotunda Stairs	5-1.3.2, NFPA 80	108109-DH	IDN Door/Hrdwre	14	24-Jul-12	17-Aug-12
Doors do not close or latch/corridor	36	3rd	By Room 310	5-2.3	108109-DH	IDN Door/Hrdwre	14	24-Jul-12	17-Aug-12
Doors do not close or latch/stairwell	37	3rd	By Room 310	5-2	108109-DH	IDN Door/Hrdwre	14	24-Jul-12	17-Aug-12
Damaged door	38	3rd	Science 306	5-1.9	108109-DH	IDN Door/Hrdwre	14	24-Jul-12	17-Aug-12
Doors do not close or latch/stairwell	39	3rd	By Room 308	5-2	108109-DH	IDN Door/Hrdwre	14	24-Jul-12	17-Aug-12

ELECTRICAL	19	1st	by Phy. Therapy	2-2 NFPA 70	108109-E	Experience Elec	1	13-Aug-12	13-Aug-12
Exposed wiring above ceiling									

**ELECTRICAL**

**ELEVATORS**

**FIRE PROTECTION**

**GENERAL CONSTRUCTION**

**HVAC/MECHANICAL**













**ELEVATORS**

**FIRE PROTECTION**

**GENERAL CONSTRUCTION**

Emergency escape window does not open	12	1st	Room 121	11-2.11	108131-GC	LaFave Smith	1	1-Aug-12	1-Aug-12
Emergency escape window handle broken	16	1st	Room 112	11-2.11	108131-GC	LaFave Smith	1	1-Aug-12	1-Aug-12
Emergency escape window screwed shut	16	1st	Room 112	11-2.11	108131-GC	LaFave Smith	1	1-Aug-12	1-Aug-12

**HVAC/MECHANICAL**

**LOCKS & KEYS**



FACILITY NAME:

ADDRESS:

PROJECT MANAGER:

Trix Charter  
 13700 Bringard Drive, Detroit, MI 48205  
 John W. Parker III  
 PROJECT: 108108

CORRECTION ORDER DESCRIPTION	REF. NO.	LOCATION		COMPLIANCE Code No.	WORK ASSIGNMENT		DURATION		
		Floor	Area/Room		Work Order	Contractor	Days	Start	Finish
<b>ADMINISTRATIVE</b>									
Fire alarm panel inspection & test records	29			NFPA 13	DPS	Cintas Fire	1	5-Jul-12	5-Jul-12
Fire sprinkler inspection & test records	30			NFPA 25	DPS	Cintas Fire	1	5-Jul-12	5-Jul-12
Fire pump inspection & test records	4, 31			NFPA 10	DPS	Cintas Fire	1	2-Jul-12	2-Jul-12
Fire extinguisher inspection & test records									
Kitchen hood suppression inspect/test records									
Record of fire & tornado drills	32			1-7.1, 10-7.1	DPS	DPS			
Hose cabinet inspection & test records	14			NFPA 14	108108-FP	Cintas Fire	1	13-Aug-12	13-Aug-12
Emergency lighting inspection & test records									
No fire rating data for curtains	12								
1st graders using 2nd floor science rooms	25	2nd	Science						
<b>ARCHITECT/DESIGN ENGINEER</b>									
Unsealed wall penetration/sprinkler line	17	1st	Stage Storage			Jenkins		3-Aug-12	10-Aug-12
Room not sprinkler protected	20	1st	Supply Room			Jenkins		6-Aug-12	17-Aug-12
Room not sprinkler protected	21	2nd	Book Storage			Jenkins		6-Aug-12	17-Aug-12
Confirm storage, custodial & hazardous rooms <100 sf are sprinkler protected or 1 hr separated. Rooms >100 sf are sprinkler protected and with 1 hr separation	22	All	Miscellaneous			Jenkins	8/3/2012	6-Aug-12	17-Aug-12
<b>DOORS &amp; HARDWARE</b>									
Door does not self-close and latch	6	1st	Kitchen Stor.		108108-DH	IDN Door/Hrdwre	5	13-Aug-17	17-Aug-12
Doors do not fully close and latch and door gap	9	1st	Gymnasium		108108-DH	IDN Door/Hrdwre	5	13-Aug-17	17-Aug-12
Fire door rating labels painted	10	All	Miscellaneous		108108-DH	IDN Door/Hrdwre	5	13-Aug-17	17-Aug-12
No door closer	11	1st	Custodial N/W		108108-DH	IDN Door/Hrdwre	5	13-Aug-17	17-Aug-12
Door does not self-close and latch	15	1st	Auditorium W		108108-DH	IDN Door/Hrdwre	5	13-Aug-17	17-Aug-12
No fire rated door with self-closer	20	1st	Supply Room		108108-DH	IDN Door/Hrdwre	5	13-Aug-17	17-Aug-12
No fire rated door with self-closer	21	2nd	Book Storage		108108-DH	IDN Door/Hrdwre	5	13-Aug-17	17-Aug-12
Doors do not self-close and latch	23	1st	114 Storage		108108-DH	IDN Door/Hrdwre	5	13-Aug-17	17-Aug-12
Door handles missing	26	1st	Boiler/Plenum		108108-DH	IDN Door/Hrdwre	5	13-Aug-17	17-Aug-12
<b>Access control magnetic locks not code</b>	<b>19</b>	<b>All</b>	<b>Miscellaneous</b>						





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## CONSENSUSDOCS 300

### STANDARD FORM OF TRI-PARTY AGREEMENT FOR COLLABORATIVE PROJECT DELIVERY

This document was developed through a collaborative effort of entities representing a wide cross-section of the construction industry. The organizations endorsing this document believe it represents a fair and reasonable consensus among the collaborating parties of allocation of risk and responsibilities in an effort to appropriately balance the critical interests and concerns of all project participants.

These endorsing organizations recognize and understand that users of this document must review and adapt this document to meet their particular needs, the specific requirements of the project, and applicable laws. Users are encouraged to consult legal, insurance and surety advisors before modifying or completing this document. Further information on this document and the perspectives of endorsing organizations is available in the ConsensusDOCS Guidebook.

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This Agreement has important legal and insurance consequences. Consultation(s) with an attorney and with insurance and surety consultants are encouraged with respect to its completion or modification.

## ARTICLE 1 AGREEMENT

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ by and between the

OWNER (Name and Address)

EDUCATION ACHIEVEMENT AUTHORITY

and the DESIGNER (Name and Address)

RESENDES

and the CONSTRUCTOR (Name and Address)

JENKINS

for the following PROJECT (Address and Brief Project Description)

EAA FACILITIES, EMERGENCY FIRE SAFETY CODE COMPLIANCE UPGRADES

Notice to the parties shall be given at the above addresses.

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## ARTICLE 2 DEFINITIONS

2.1 Agreement means this ConsensusDOCS 300 Standard Form of Agreement For Collaborative Project Delivery, as modified by the Parties, and Exhibits and Attachments made part of this Agreement upon its execution.

2.2 A Change Order is a written order approved by the Management Group after execution of this Agreement, indicating changes in the scope of the Work, the PTCE or Contract Time, including substitutions proposed to and accepted by the Management Group.

2.3 Collaborative Project Delivery Team (CPD) shall have the meaning ascribed in Paragraph 3.3.

2.4 The Construction Budget is the **Owner's** total cost of Project components and construction services. The Construction Budget does not include the Design Budget and other costs that make up the overall Project Target Cost Estimate.

2.5 The Construction Schedule is the document 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 Management Group.

2.6 The Contract Documents consist of:

- a. Change Orders and written amendments to this Agreement including exhibits and appendices and amendments;
- b. this Agreement;
- c. the most current documents approved by the Management Group;
- d. the information provided by the **Owner** pursuant to Article 5;
- e. the Contract Documents in existence at the time of execution of this Agreement which are set forth in Article 25;
- f. the **Owner's** Program.

Except as specifically provided in this Agreement, in case of any inconsistency, conflict or ambiguity among the Contract Documents, the documents shall govern in the order in which they are listed above. Among all the Contract Documents, the term or provision that is most specific or includes the latest date shall control. Information identified in one Contract Document and not identified in another shall not be considered to be a conflict or Inconsistency.

2.7 The Contract Time is the period between the Date of Commencement and Substantial Completion.

2.8 The Constructor is the person or entity identified in Article 1.

2.9 The term Day shall mean calendar day unless otherwise specifically defined.

2.10 The Design Budget is the **Owner's** total cost for design services required for the completion of the Project.

2.11 Designer means the Architect, Designer or Engineer identified in Article 1 and its consultants and includes the Designer's representative, licensed in the state where the Project is located. The use of the term Designer in this Agreement is for convenience and is not intended to imply or infer that the individual or entity named in Article 1 will provide design professional services in a discipline in which it is not

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licensed.

2.12 Final Completion occurs on the date when the **Constructor's** obligations under this Agreement are complete and accepted by the **Owner** and final payment becomes due and payable. This date shall be confirmed by a Certificate of Final Completion signed by the **Owner** and the **Constructor**.

2.13 A Material Supplier is a person or entity retained by the **Constructor** to provide material or equipment for the Work.

2.14 Others means other contractors, material suppliers and persons at the Worksite who are not employed by the **Constructor** or Subcontractors.

2.15 **Owner** is the person or entity identified in Article 1, and includes the **Owner's Representative**.

2.16 **Owner's consultants** means those consultants retained by **Owner** identified by attachment to this Agreement who will assist **Owner** in carrying out the Project.

2.17 The **Owner's Program** is an initial description of the **Owner's** objectives, that may include budget and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements.

2.18 The Project, as identified in Article 1, is the building, facility or other improvements for which the **Owner, Designer and Constructor** have agreed to work collaboratively to achieve the design and construction under this Agreement.

2.19 Project Plan means the resource-loaded plan prepared by Designer and Designer's consultants (or any other party as requested by the Management Group) depicting the activities to be accomplished in each phase of the Project and the anticipated labor (and resulting personnel costs), together with anticipated Reimbursable Expenses.

2.20 The Project Schedule is the document that shows the timing and sequencing of the design and construction required to meet the time criteria set forth in the **Owner's Program**.

2.21 The Project Target Cost Estimate (PTCE) shall have the meaning ascribed in Paragraph 8.3.

2.22 Responsible Designer shall mean the person or entity that has responsibility for preparing the design, including drawings or specifications, for a particular portion of the Work.

2.23 Services means the services provided by the Designer or by consultants retained by the Designer for the Project.

2.24 A 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 shall include Trade Contractors as defined in Paragraph 2.27. The term Subcontractor does not include the Designer or Others.

2.25 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** and **Constructor**.

2.26 A Sub-subcontractor is a person or entity who has an agreement with a Subcontractor to perform any portion of the Subcontractor's Work.

2.27 A Trade Contractor is a person or entity retained by the **Constructor** to provide collaboration and services during the Preconstruction Phase of the Project. It is anticipated that a Trade Contractor will

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continue to serve as a Subcontractor during the Construction Phase provided that the Management Group determines that its performance merits continued participation and accepts its price proposal.

2.28 Work means the construction and services necessary or incidental to fulfill the **Constructor's** obligations for the Project in conformance with this 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.

2.28.1 Changed Work means work that is different from the original scope of Work; or work that changes the PTCE or Contract Time.

2.28.2 Defective Work is any portion of the Work that is not in conformance with the Contract Documents.

2.29 Worksite means the geographical area at the location of the Project as identified in Article 1 where the Work is to be performed.

## ARTICLE 3

### COLLABORATIVE PRINCIPLES

3.1 OBJECTIVES The Project consists of the design, construction and commissioning of the Project as more fully described in Exhibit A to this Agreement. The Project objectives are to design and construct the facilities called for in the **Owner's** Program, within the PTCE and the Schedule developed under the Agreement.

3.2 COLLABORATIVE PROJECT DELIVERY The Parties agree that the Project objectives can be best achieved through a relational contract that promotes and facilitates strategic planning, design, construction and commissioning of the project, through the principles of collaboration and lean project delivery. This approach recognizes that each Party's success is tied directly to the success of all other members of the Collaborative Project Team and encourages and requires the Parties to organize and integrate their respective roles, responsibilities and expertise, to identify and align their respective expectations and objectives, to commit to open communications, transparent decision-making, proactive and non-adversarial interaction, problem-solving, the sharing of ideas, to continuously seek to improve the Project planning, design, and construction processes, and to share both the risks and rewards associated with achieving the Project objectives.

3.3 COLLABORATIVE PROJECT DELIVERY TEAM The Parties shall perform as a Collaborative Project Delivery (CPD) Team to facilitate the design, construction and commissioning of the Project. CPD Team members shall share information and collaborate for the benefit of the Project. CPD Team members shall initially include the **Owner**, the Designer and the **Constructor**. In forming a Collaborative Project Team, the Parties expect that design consultants and Trade Contractors will be selected to provide preconstruction services early in the preconstruction phase. These parties shall sign Joining Agreements, as they become members of the Team, accepting the principles and methods of collaboration set forth in this Agreement. Ultimate Project decision-making authority shall rest with the Management Group defined in Paragraph 4.1.

3.4 COLLABORATIVE RELATIONSHIP The Parties each accept the relationship of mutual trust, good faith and fair dealing established by this Agreement and covenants with each other to cooperate and exercise their skill and judgment in furthering the interests of the Project. The Designer and **Constructor** each represents that it possesses the requisite skill, expertise, and, as applicable, licensing to perform the required services. The **Owner**, **Constructor**, Designer and all members of the CPD Team agree to adhere to principles of collaboration based on mutual trust, confidence, good faith and fair dealing. Within the scope of their respective expertise, the Parties shall together actively and continually pursue collaboration in the best interests of the Project. The Parties shall endeavor to promote harmony and

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collaboration among all Project participants.

**3.5 OWNER RESPONSIBILITIES** The *Owner* shall work with the Designer and *Constructor* to identify, the *Owner's* Project objectives, including budget and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements. The *Owner* shall provide full information in a timely manner regarding requirements for the Project, including the *Owner's* Program and other relevant information.

**3.6 DESIGNER'S RESPONSIBILITIES** The Designer shall furnish or provide all the design and engineering services necessary to design the Project in accordance with the *Owner's* objectives, as outlined in the *Owner's* Program and other relevant information defining the Project. Consistent with the collaborative approach set forth in this Agreement, the Designer shall draw upon the assistance of the *Constructor* and others in developing the Project design, but the Designer shall retain overall responsibility for all design decisions as required by applicable state laws. Cost and schedule are design criteria and the Designer, in collaboration with the CPD Team, shall ensure that design fully considers cost and schedule implications. The Designer represents that it is an independent contractor and that in its performance of the Services it shall act as an independent contractor. The Designer's duties, responsibilities and limitations of authority shall not be restricted, modified or extended without written consent of the Management Group.

**3.7 CONSTRUCTOR'S RESPONSIBILITIES** The *Constructor* shall furnish preconstruction and construction administration and management services, collaborate with the Designer in the Designer's development of the Project Plan and Project design and use the *Constructor's* diligent efforts to promote the delivery of the Project in an expeditious manner. Consistent with the collaborative approach set forth in this Agreement, the *Constructor* shall assist the Designer in the development of the Project design but shall not provide professional services which constitute the practice of architecture or engineering unless the *Constructor* needs to provide such services in order to carry out its responsibilities for construction means, methods, techniques, sequences and procedures, or unless such services are specifically called for by the Contract Documents. 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 as being necessary to produce the indicated results. The *Constructor* shall be responsible for the supervision and coordination of the Work, including the construction means, methods, techniques, sequences and procedures utilized. The *Constructor* represents that it is an independent *Constructor* and that in its performance of the Work it shall act as an independent *Constructor*. The *Constructor's* duties, responsibilities and limitations of authority shall not be restricted, modified or extended without written consent of the Management Group.

## 3.8 COLLABORATIVE RISK ALLOCATION

**3.8.1 INTENT** The purpose of the Collaborative Project Delivery approach, established by this tri-party relational contract, is to minimize the risk of delay, conflict and increased cost typically experienced by project participants in non-integrated project delivery. By committing to collaborative principles, the Parties affirm their commitment to endeavor to reduce overall risk to the Project and to each participant.

**3.8.2 PROJECT RISK ALLOCATION** Subject to Article 11, the Parties agree to allocate project risk as follows: (Select One):

**.1 SAFE HARBOR DECISIONS** For those Project risks arising from collaboratively reached and mutually agreed-upon Project decisions made by the Management Group (Safe Harbor Decisions), the Parties agree to release each other from any liability at law or in equity for any omission, mistake or error in judgment, whether negligent or not, acting in good faith, in performing its obligations under this Agreement except to the extent such act or omission amounts to a willful default of an obligation under this Agreement.

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3.2 TRADITIONAL RISK ALLOCATION Each Party shall be fully liable for its own negligence and breaches of contract and warranty arising from the performance of this Agreement, to the extent provided for under the law of the jurisdiction in which the Project is located, except to the extent as otherwise limited as set forth below: (Indicate Applicable Exception):

a. **Limitation on Designer's Liability** To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of **Designer** to **Owner** or **Constructor** or anyone claiming by, through or under the **Owner** or **Constructor**, for any and all claims, losses, costs or damages of whatsoever kind arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes including but not limited to the negligence or breach of contract of **Designer** shall not exceed an amount equal to \_\_\_\_\_ (\$\_\_\_\_), unless such claims, losses, costs or damages are reimbursed pursuant to a policy of professional liability insurance maintained by **Designer** or **Designer's** Consultants.

b. **Limitation on Constructor's Liability** To the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of **Constructor** to **Owner** or **Designer** or anyone claiming by, through or under the **Owner** or **Designer**, for any and all claims, losses, costs or damages of whatsoever kind arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes including but not limited to the negligence, breach of contract or warranty express or implied of **Constructor**, shall not exceed an amount equal to \_\_\_\_\_ (\$\_\_\_\_), unless such claims, losses, costs or damages are reimbursed pursuant to an insurance policy provided by the **Constructor** as required by this Agreement.

3.8.3 **MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES** Regardless of the Project Risk Allocation approach selected by the Parties in Subparagraph 3.8.2, no Party to this Agreement shall be liable to any other Party to this Agreement for consequential damages arising from any cause. The **Owner**, **Designer** and **Constructor** waive Claims against each other for consequential damages arising out of or relating to this Agreement.

3.9 **RELIABLE COMMITMENTS** Fundamental to the success of Collaborative Project Delivery is the willingness and ability of all CPD Team members to make and secure reliable commitments as the basis for planning and executing the Project. A reliable commitment is one in which the conditions necessary for the satisfaction of the commitment are clear to all parties and the Party making the commitment:

3.9.1 Is competent and able to perform the task or has retained individuals or entities with the competence or ability to perform the task;

3.9.2 Has estimated the time to perform the task and has allocated adequate resources to perform the task and has properly scheduled time to perform the task;

3.9.3 Has no current basis for believing that the commitment cannot or will not be fulfilled.

3.9.4 Is prepared to be accountable if the commitment cannot be performed as promised and will promptly advise the CPD Team if it believes the task may not be performed as committed.

3.10 **QUALITY** The Parties acknowledge that quality assurance is critical to the success of Collaborative Project Delivery. Defects or deficiencies in Work or Services negatively impact cost, time, work flow and performance. Those performing the Work or providing the Services must assure quality in the first instance to avoid defects and deficiencies and, when they do occur, proactively and collaboratively mitigate their impact. All Project participants must understand the need to ensure quality

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at all times.

**3.10.1 QUALITY PLAN** The Designer and **Constructor**, in collaboration with the other CPD Team Members, shall develop a plan that, at a minimum, addresses the following issues:

3.10.1.1. Confirming that the Contract Documents clearly communicated to Project participants the conditions necessary for the satisfaction of the commitment

3.10.1.2. Training workers on the benefits of standardized work practices, the continuous improvement of work practices and the negative impact upon the Project of failing to achieve commitments

3.10.1.3 Using mockups, first run studies, early completion of standard work units, and similar efforts to demonstrate and document agreed-upon levels of quality

3.10.1.4 Using permit processes to identify and enhance quality initiatives

3.10.1.5 Providing task-based quality checklists for use by trade persons to self-evaluate quality performance, establish benchmarks and promote continuous improvement

3.10.1.6 Developing methods for onsite managers and others providing quality assurance to review early work product and assure quality performance

3.10.1.7 Integrating quality review and Project planning and scheduling pursuant to Article 7

3.10.1.8 Developing protocols for trade persons to discuss and assure quality when work is being handed off to another

3.10.1.9 Identifying procedures for immediately addressing quality failures by workers originally performing work, to assure minimum cost impact and continuous improvement

3.10.1.10 Developing procedures for recognizing outstanding performance and quality by individual trade persons and the Parties

3.10.1.11 Creating standards by which to measure and track quality performance.

## ARTICLE 4

### MANAGEMENT BY THE MANAGEMENT GROUP

**4.1 MANAGEMENT GROUP** The delivery of the Project shall be managed by the Management Group, which shall serve as the decision-making body for the delivery of the Project and shall employ collaborative methods for achieving the highest quality and most efficient and economical delivery of the Project. The Management Group shall be comprised of an authorized representative of the **Owner**, the Designer and the **Constructor**. The original Management Group may invite other critical project participants to become members of the Management Group, for purposes of advancing the overall collaborative approach and the best interests of the Project. Any party added as an additional Management Group member shall be entitled to participate in all Management Group functions and shall have a right to vote on Management Group decisions that directly concern that party's work and area of expertise. The Management Group may also vote to remove non-original Management Group members from the Management Group.

**4.2 OWNER'S MANAGEMENT REPRESENTATIVE** The **Owner's** authorized Management Group representative is \_\_\_\_\_, who shall be fully acquainted with the Project, and shall have authority to bind the **Owner** in all matters requiring the **Owner's** approval, authorization or written notice. The **Owner's** alternative representative shall be \_\_\_\_\_.

**4.3 DESIGNER'S MANAGEMENT REPRESENTATIVE** The Designer's authorized Management Group

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representative is \_\_\_\_\_, who shall possess full authority to bind the Designer in all matters requiring the Designer's approval, authorization or written notice. The Designer's alternative representative shall be \_\_\_\_\_.

**4.4 CONSTRUCTOR'S MANAGEMENT REPRESENTATIVE** The *Constructor's* authorized Management Group representative is \_\_\_\_\_, who shall possess full authority to bind the *Constructor* in all matters requiring the *Constructor's* approval, authorization or written notice. The *Constructor's* alternative representative shall be \_\_\_\_\_.

**4.5 REPLACEMENT OF MANAGEMENT GROUP MEMBERS** Any Party may, upon seven (7) Days' written notice appoint a new authorized representative to the Management Group, provided no other Party has a reasonable objection to the proposed replacement.

**4.6 DECISION-MAKING** Consistent with the principles of collaboration, the actions and decisions of the Management Group shall, to the greatest extent possible, be by consensus, and the members of the Management Group shall endeavor to reach decisions by consensus. The Management Group shall act in the best interest of the Project as a whole without consideration to each member's own interest, and consistent with applicable laws, codes and regulations. To the extent consensus cannot be reached among the three original Management Group members, the *Owner* shall make a determination in the best interest of the Project as a whole subject to the dispute resolution process in Article 23. Decisions implicating life, health, property and public welfare and which are required to be made by a licensed design professional, shall be made by the Designer in accordance with Paragraph 3.6.

#### 4.7 MANAGEMENT GROUP MEETINGS

**4.7.1 INITIAL MEETING** Following execution of this Agreement, the Management Group shall have an initial meeting to review the *Owner's* Program and establish the Management Group's goals for the Project and to begin initial Project planning. If no *Owner's* Program has been established, the Management Group shall meet for the purpose of assisting the *Owner* in the development of an *Owner's* Program.

**4.7.2 REGULAR MEETINGS** The Management Group shall establish a schedule for regular meetings for the purpose of reviewing and discussing the Project status and any issues impacting the progress of the Project including conflicts, delays, and their causes and potential claims.

**4.7.3 SPECIAL MEETINGS** In the event a Project matter arises requiring immediate attention, any member of the Management Group may call for a meeting on one (1) Day's written notice. Such notice shall include a thorough description of the issues to be addressed. Special Meetings may be conducted through any medium the Management Group members mutually agree upon, including telephone, video or web-conferencing.

**4.8 CPD TEAM MEETINGS** The Management Group shall establish a matrix for regular meetings of the CPD Team. This matrix shall include meetings for overall Project planning and weekly project scheduling and coordination, variance meetings, as well as the record-keeping and reporting requirements for such meetings.

**4.9 PRINCIPLES OF COMMUNICATIONS** The Parties acknowledge that a truly collaborative relationship requires consistently open, honest and clear verbal and written communications that completely and accurately convey all Project issues, conflicts, deliverables and reliable commitments to perform obligations as promised, and the Parties shall endeavor at all times to so communicate.

**4.9.1 COMMUNICATIONS PROTOCOL** The Management Group shall meet, confer and agree upon a written protocol for all forms of Project communications, including Project meetings, written and electronic communications. The protocol shall:

4.9.1.1 Identify critical Project personnel and their contact information;

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- 4.9.1.2 Provide a detailed project meeting matrix with attendance requirements;
- 4.9.1.3 With the goal that there be no offline Project-related discussions among Project participants, allow for direct communication between specialty subcontractors and design consultants and the **Owner, Constructor** or Designer, as necessary, with contemporaneous notification of the context of such communication to the other parties;
- 4.9.1.4 Establish a further protocol for the exchange of electronic Project documentation.

The failure of a Party to adhere to the Project communications protocol shall be a breach of this Agreement, grounds for withholding payment and a basis for termination as provided elsewhere in this Agreement.

**4.9.2 ELECTRONIC COMMUNICATION PROTOCOL** The Parties may use electronic documentation transmitted or made available through various means including e-mail, a Project based website, FTP sites or other available methods. The Management Group shall develop a protocol for the exchange of electronic communications to be adhered to by all Project participants. The Electronic Communication Protocol shall at a minimum:

- 4.9.2.1 Identify one Party to manage the exchange process, including responsibility for providing and coordinating notifications;
- 4.9.2.2 Identify an individual or individuals within each firm or company responsible for compliance with document exchange protocols;
- 4.9.2.3 Define the documents to be accepted in electronic form or transmitted electronically, including a specific listing of such documents for the project (e.g., drawings, shop drawings, change orders, requests for information, etc);
- 4.9.2.4 Set forth the Parties' listing of, and responsibilities for compliance with, equipment, software and services impacting the transmission, receipt or utilization of electronic documents and data (including any prohibitions on or cautions as to utilization of different operating systems or translation programs and any equipment and software upgrading expectations);
- 4.9.2.5 Document transmission standards, such as acceptable formats, transmission methods and verification procedures;
- 4.9.2.6 Identify third-party providers, if any, with copies of governing agreements/licenses;
- 4.9.2.7 Identify methods for maintaining version control of electronic documents, including a depository of record copies of transmitted and received electronic documents;
- 4.9.2.8 Specify privacy and security requirements;
- 4.9.2.9 Set forth storage and retrieval requirements for electronic documents and data.

**4.10 PROJECT PERSONNEL** The Designer and **Constructor** have each designated as their key Project personnel those individuals identified in Exhibit B to this Agreement. Neither the Designer nor the **Constructor** shall remove or replace any of its key Project personnel without the Management Group's prior written consent. Any replacement personnel shall have substantially equivalent or better qualifications than the employee being replaced.

4.10.1 The Management Group shall not have any duties of supervision or control of any person employed or retained by the Designer, the **Constructor**, or their respective subconsultants, subcontractors and suppliers in connection with the Project.

4.10.2 The Designer and the **Constructor** shall remove from the Project any employee or person

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retained by it for the Project to which the **Owner** or Management Group has a reasonable objection.

## ARTICLE 5

### OWNER PROVIDED INFORMATION

**5.1 SITE INVESTIGATION PLAN** The Management Group shall jointly develop a preconstruction site investigation plan identifying additional needed preconstruction information and investigations at or concerning the site. The Management Group shall also identify in writing any apparent deficiencies or discrepancies in the information **Owner** provides. As part of this process, the **Designer** and **Constructor** shall describe and advise **Owner** of additional investigations or information reasonably required to prepare the Construction Documents.

**5.2 OWNER INFORMATION** Preconstruction information to be provided by the **Owner** should include:

**5.2.1** information describing the physical characteristics of the site, including surveys, site evaluations, legal descriptions, data or drawings depicting existing conditions, subsurface conditions and environmental studies, reports and investigations;

**5.2.2** tests, inspections and other reports dealing with environmental matters, Hazardous Material and other existing conditions, including structural, mechanical and chemical tests, required by the Management Group or by law; and

**5.2.3** any other information or services requested in writing by the Management Group which are relevant to the planning, design and construction of the Project.

**5.2.4** Budget information regarding the Project for design, construction and **Owner**-provided items. The Management Group shall jointly manage the budget to further the Project objectives.

The information required shall be provided in a timely manner and in reasonable detail. 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.

**5.3 ACCESS TO PRECONSTRUCTION INFORMATION** To the extent that preconstruction information exists, the Management Group shall provide prospective Project participants access to the information with reasonable promptness, and without cost or expense. CPD Team members shall review the information furnished with reasonable care and advise the Management Group in writing of any errors, inconsistencies, inaccuracies, or incompleteness which would prompt **Constructor**, Trade Contractors or Subcontractors to include additional contingency in their estimates or require a Responsible Designer to make a design assumption that might prove wasteful if additional investigation was performed. The CPD Team member shall also suggest options for additional preconstruction investigation of existing conditions for Management Group consideration, including the cost and potential benefit of the differing levels of potential preconstruction investigation.

**5.3.1** A CPD Team member that has fulfilled its obligations under Paragraph 5.3 shall be entitled to rely upon the accuracy of the information provided to the extent that it is not contradicted by the Contract Documents.

**5.4** Designer shall be responsible for coordinating the information provided by **Owner**, **Owner's** consultants and Designer's consultants to prepare coordinated design documents pursuant to this

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Agreement.

## ARTICLE 6

### DEVELOPMENT OF DESIGN AND COLLABORATIVE PRECONSTRUCTION SERVICES

6.1 COLLABORATIVE DESIGN PRINCIPLES In order to achieve the Project objectives, the design process must occur in a collaborative manner, informed by a free-flow of accurate information concerning program, quality, cost and schedule. While retaining overall responsibility for the Project design, the Designer must work collaboratively with the other members of CPD Team, drawing on their respective expertise in order to achieve the Project objectives.

6.2 SCOPE A description of the scope of services to be provided by Designer and Designer's consultants and the documents to be developed during each phase or progression of the design is set forth in Exhibit C. The Management Group shall oversee development of the design documents for the Project and develop milestone schedules for the preconstruction phase.

6.3 INFORMATION In accordance with Article 5, **Owner** shall provide full information regarding requirements for the Project including a Program which shall set forth **Owner's** design objectives, constraints and criteria, including space requirements and relationships, flexibility and expandability, special equipment and systems and site requirements.

6.4 LAWS AND REGULATIONS Design Services shall comply with all applicable laws and requirements in effect during the preparation of the Contract Documents and any governmental authority from whom permits, approvals or other consents for the Project may be required. A Responsible Designer shall identify and determine the meaning and effect of all applicable building code provisions and other applicable laws, requirements and restrictions, whether or not listed in the Contract Documents, and take such measures as may be necessary to meet such laws or requirements, including filing or revising any required applications, drawings, specifications, calculations or other documents to the extent necessary to secure any required permits, approvals or other consents for construction of the Project at the Project site. **Owner** shall pay all costs and fees required to secure necessary permits, approvals and other consents.

6.5 PULL BASED DESIGN The Designer shall use "pull based" planning principles to develop the Design Documents. Pull based design advances the design only so far as has been anticipated and approved for any given time period by the Management Group, with the designers only performing services that are shown on the applicable Project plan as being performed in that week or that has been identified as "workable backlog." If rework is required as a result of failure to conform to the approved plan, the Party failing to adhere to that approved plan shall be responsible for all resulting costs associated with rework.

6.6 Consistent with the collaborative approach set forth in this Agreement, should the **Constructor**, Trade Contractors or Subcontractors in the course of the performance of obligations discover any errors, omissions or inconsistencies in the design documents prepared by the Designer or Responsible Designers, they shall promptly notify the Management Group, for action by the Designer. It is recognized that the **Constructor**, Trade Contractor and Subcontractor are not acting in the capacity of a licensed design professional.

6.7 DESIGN-BUILD WORK The Management Group shall specify all applicable performance and design criteria for any work that is performed on a design-build basis. The **Constructor** shall retain appropriately licensed design professionals to provide all design services related to the Design-Build Work. Limitations on **Constructor's** responsibility for design stated elsewhere in the Contract Documents shall be inapplicable to Design-Build Work.

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**6.8 DESIGN DOCUMENT STANDARDS** The Management Group shall specify the standards to which all design documents shall comply.

**6.9 BUILDING INFORMATION MODELING APPROACH** The Parties may establish a building information modeling (BIM) approach to design and construction of the Project, providing continuous and immediate availability of reliable, integrated and coordinated design, scope, schedule and cost information. The use of a building modeling approach, and the processes and technologies necessary to fully utilize such an approach, shall be established as an addendum to this Agreement. If a BIM approach is elected, the Management Group shall establish the BIM parameters, standards and technological requirements.

## 6.10 OWNERSHIP AND USE OF DOCUMENTS

**6.10.1** All drawings, plans, specifications, calculations, notations and other documents prepared by Designer, Subconsultants, **Constructor**, Subcontractors or other CPD Team members in connection with the Project (and any electronic media upon which they were prepared or stored) (the "Project Documents"), including, without limitation, the Design Development Documents and the Construction Documents, are prepared for the **Owner**, and all title, ownership, and copyright privileges are and at all times shall be vested in **Owner**, subject only to the use provisions set forth below.

**6.10.2.** The originals of all Project Documents shall be held by CPD Team Members for the benefit of **Owner**. At **Owner's** request and cost, any or all Project Documents shall be immediately delivered to **Owner** in their original form, or in clear, reproducible form, regardless of whether this Agreement is completed, suspended or terminated.

**6.10.3 OWNER'S USE** Provided **Owner** has paid Designer in accordance with the terms of this Agreement, **Owner** shall have the right, regardless of whether this Agreement is completed, suspended or terminated, in whole or in part, to use and reuse the Project Documents for any purpose. In the event **Owner** uses or reuses the Project Documents to perform work or have work performed on its behalf for which a CPD Team Member who authored the documents is not retained, **Owner** shall indemnify, protect and hold that CPD Team Member free and harmless from liability, if any, arising from the use of any Project Documents by **Owner**, including, without limitation, any liability to third parties for personal injury, death, or property damage.

**6.10.4 AUTHOR'S USE** The author of a Project Document may reuse plans, drawings, specifications and other data prepared pursuant to this Agreement in its practice, but only in their separate constituent parts and not as a whole. In the event any Party uses any of the plans, drawings, specifications and other data in its practice, that Party shall indemnify, defend, protect and hold **Owner** free and harmless from liability, if any, arising from the use of such plans, drawings, specifications and other data, including, without limitation, any liability to third parties for personal injury, death, or property damage.

**6.10.5 LIMITED USE BY NON-AUTHOR** Subject to Subparagraph 6.10.4, the Project Documents, together with submittals or other design documents prepared by **Constructor**, or any Subcontractor, Material Supplier, or Sub-subcontractor specifically for this Project, and copies thereof furnished to **Constructor**, are for use solely with respect to this Project. They are not to be used by **Constructor**, Subcontractors, Sub-subcontractors or Material Suppliers on other projects, outside the scope of the Work, without the specific written consent of **Owner**. **Constructor**, Subcontractors, Sub-subcontractors and Material Suppliers are granted a limited license to use and reproduce applicable portions of the Project Documents appropriate to and for use in the execution of their Work under the Contract Documents.

**6.11 OWNER APPROVAL** All approvals required from **Owner** shall be in writing. **Owner** approval shall not constitute a waiver by **Owner** of any of its rights under this Agreement, nor shall it relieve Designer or

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Designer's consultants from any of their obligations or liability for the technical or professional adequacy of their Services.

**6.12 TEAM MEETING** During the Preconstruction Phase, the Management Group shall meet every other week and shall schedule regular weekly meetings for the CPD Team, to facilitate collaboration regarding all project elements, including site use and improvements, the selection of materials, building systems, and equipment.

## **6.13 TARGET VALUE DESIGN**

**6.13.1 TARGET VALUE DESIGN SUPPORT** The **Constructor** and Trade Contractors shall provide Target Value Design support during the development of the Project design, as more fully discussed in Article 8. Target Value Design support is intended to inform the overall Project design with the critical criteria of quality, cost, schedule and constructability.

**6.13.2** The Management Group shall develop Target Value Design methods for the Designer, **Constructor** and Trade Contractors, addressing the establishment of initial target costs for major Project components and systems; the selection of Trade Contractors; the formation and conduct of Project design, supply and construction teams for major Project components and systems; and cost analysis procedures.

**6.14 VALUE IDENTIFICATION AND CREATION** Throughout the development of the Project design, the Designer, its consultants, **Constructor** and its Subcontractors and Material Suppliers shall continually seek to create value by identifying options to improve constructability and functionality, reduce capital or life cycle cost, or provide operational flexibility consistent with the **Owner's** programmatic needs. As part of those efforts, the Designer, its consultants, **Constructor**, its Subcontractors and Material Suppliers shall identify and evaluate alternative systems, means, methods, configurations, finishes, equipment and approaches that will create a savings of time or money in constructing or operating and maintaining the Project, or increase quality, constructability, or other measures of value. As a result of these efforts, a CPD Team member may submit a Value Creation Proposal to the Management Group that details the proposed change, identify all aspects of the Project directly or indirectly affected by the change, specify the cost or time savings to be achieved if the proposal is accepted, and detail any anticipated effect on the Project's service life, economy of operation, ease of maintenance, appearance, design or safety standards. The Management Group shall determine whether to pursue a Value Creation Proposal. If a Value Creation Proposal is adopted, the Designer shall ascertain design feasibility, consistency with the **Owner's** programmatic needs, compatibility and compliance with building regulations, and professional standards of care and incorporate the proposed value creation into the Project design and Contract Documents.

**6.15 CONSTRUCTABILITY** Throughout the development of the Project design, **Constructor** shall conduct constructability reviews in collaboration with the Designer, to determine that the design documents will result in construction drawings that are sufficiently complete, accurate and coordinated so as to reduce the risk of disruption, delay, change orders and potential claims. The findings of these reviews shall be recorded and distributed to all CPD Team Members. The Designer shall evaluate the findings of these reviews and as appropriate incorporate changes in the design documents, provide notations on the Construction Documents or explain why such action is unnecessary. In conducting constructability reviews, the **Constructor** shall not provide professional services which constitute the practice of architecture or engineering. Designer is responsible for the completeness and accuracy of the design. Notwithstanding the foregoing, consistent with the collaborative approach set forth in this Agreement, the **Constructor** shall advise the Designer if **Constructor** is actually aware that the design does not comply with codes, laws or requirements of government or public authorities having jurisdiction over the Project. Nothing in this section shall relieve any Party from their respective obligations to perform in accordance with the terms of their respective contract and the applicable standard of care.

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6.16 REQUESTS FOR INFORMATION The CPD Team members shall have as their goal the elimination of the need for requests for information through effective collaboration and communication during preconstruction in order to maximize the Parties' understanding of the design requirements, including the design intent and all technical requirements of the Project, prior to construction. To the extent requests for information are necessary, the Party seeking clarification shall first address the issue through direct discussions among appropriate Project personnel, and thereafter as necessary through senior party representatives. The resolution of issues, or the failure to achieve resolution, shall be documented and reported to the Management Group. Absent an agreement or direction to the contrary by the Management Group, clarifications shall be issued no more than five (5) business Days after receipt of a request for interpretation, including requests received via telephone. Interpretations and decisions of the Designer will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings.

## ARTICLE 7

### PROJECT PLANNING AND SCHEDULE

7.1 PRELIMINARY PLANNING The Designer and **Constructor** shall each review the **Owner's** Program to ascertain the requirements of the Project. The Designer and **Constructor**, together with any Trade Contractors then retained, shall meet to confer on and verify such requirements. The Designer and **Constructor** shall provide to the Management Group for its written approval a joint preliminary evaluation of the **Owner's** Program and the Project requirements, addressing all issues bearing upon the success of the Project including the need for additional study or of testing, the site with regard to access, traffic, drainage, parking, building placement and other considerations affecting the building, the environment and energy use, as well as information regarding applicable governmental laws, regulations and requirements. The joint preliminary evaluation shall also propose alternative architectural, civil, structural, mechanical, electrical and other systems for review by the Management Group, to determine the most desirable approach on the basis of cost, technology, quality and speed of delivery. The Designer and **Constructor** shall also review existing test reports but will not undertake any independent testing nor be required to furnish types of information derived from such testing in their joint preliminary evaluation. The joint preliminary evaluation shall specifically identify any deviations from the **Owner's** Program.

7.2 PROJECT PLANNING SYSTEM The CPD Team shall employ a system of project planning that includes the collaborative development of a milestone schedule, phase or progression schedules, "make-ready" look ahead plans, weekly work plans and methods for recording, measuring and improving the reliability of project planning.

7.2.1 PULL PLANNING The Project shall employ a pull scheduling approach to planning and scheduling, which provides that preceding activities are not started sooner than is needed to assure the continuous performance of subsequent activities. Where the work of one Team member is dependent upon the prior performance of another Team member, the Team member whose work follows shall request of and receive from the prior performer a commitment as to when the work to be handed-off will be finished and the Team members shall agree upon criteria for the hand-off of work.

7.2.2 PHASE PLANNING Project Planning shall be based on the collaborative efforts of all those performing work during a given period and shall indicate when work will be done to meet milestone dates.

7.2.3 MAKE-READY LOOK AHEAD PLAN Make-Ready Look Ahead plans shall be developed by the CPD Team, identifying each item of work to be performed and completed during the given planning period, whether factors exist that would impede performance and completion and the actions to be taken to negate any such impediments.

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**7.2.4 WEEKLY CPD TEAM MEETINGS** The CPD Team shall conduct weekly meetings to review and evaluate work to be performed in the coming week and any factors that might impede the completion of work.

## 7.3 SCHEDULE

**7.3.1 PROJECT SCHEDULE** The Designer and **Constructor**, based on input from other CPD Team members, shall jointly prepare for the Management Group's review and approval a Milestone Schedule that shall show the timing and sequencing of the design and construction required to meet the time criteria set forth in the **Owner's** Program. The Milestone Schedule shall be updated for the Management Group's review and approval at such intervals required by the Management Group as appropriate for a BIM approach, or in the absence of such, at the completion of Schematic Design Documents, Design Development Documents and Construction Documents, except when construction commences before the completion of such documents. If any Milestone Schedule shows a deviation from previously approved Project Schedules, the Designer and **Constructor** shall make appropriate recommendations to the Management Group.

**7.3.2 CONSTRUCTION SCHEDULE** When Project requirements have been sufficiently identified, the **Constructor** shall prepare a preliminary Construction Schedule for the review and approval of the Management Group. The Construction Schedule shall coordinate and integrate the services and activities of the **Owner, Constructor, Designer, Subcontractors** and the requirements of governmental entities. As design proceeds and at appropriate intervals the **Constructor** shall update the Construction Schedule, for the Management Group's approval, to indicate proposed activity sequences, durations, or milestone dates for such activities as receipt and approval of pertinent information, issuance of the Construction Documents, the preparation and processing of shop drawings and samples, delivery of materials or equipment requiring long-lead time procurement, **Owner's** occupancy requirements and estimated date of Substantial Completion of the Project. If Construction Schedule updates indicate that milestone dates contained in prior Construction Schedules will not be met, the **Constructor** shall notify and make recommendations to the Management Group. If the Project is to be completed in phases, the Designer and the **Constructor** shall make recommendations to the Management Group regarding the phased issuance of Construction Documents.

**7.3.3** The **Constructor** Team shall monitor the performance of Subcontractors as it relates to the Construction Schedule; update the Construction Schedule and if required, recommend corrective alternatives or adjustments to the Management Group.

## ARTICLE 8

### CONSTRUCTION BUDGET AND COST MODELING AND PROJECT TARGET CONTROL ESTIMATE

#### 8.1 BUDGETS

**8.1.1 OWNER'S PROJECT BUDGET** Based on the information then available to the **Owner**, at the beginning of the Project the **Owner** shall provide to the Management Group a Project Budget estimating the total cost to achieve the design and construction of the **Owner's** Program. The Project Budget cannot be revised without **Owner** approval, which approval may not be given.

**8.1.1.1** The Designer and **Constructor** shall review and critique the Project Budget. Based on such review, the **Owner** may revise the Project Budget.

**8.1.2 DESIGN BUDGET** At the beginning of the Project, the Designer, in collaboration with the **Owner** and **Constructor**, shall develop a Design Budget, which shall include an estimate of all design costs and design-related expenses and the Designer's Fee.

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**8.1.3 CONSTRUCTION BUDGET** At the beginning of the Project, the **Constructor** shall, with the collaboration and assistance of the Management Group, establish a Construction Budget, which shall include:

- 8.1.3.1 A preliminary estimate of the total cost for construction;
- 8.1.3.2 A Design Contingency to cover increases in estimated construction costs as a result of the refinement or further development of the design, but not changes in the overall scope of the work;
- 8.1.3.3 A Construction Contingency to cover costs which are properly reimbursable as a Cost of the Work but are not the basis for a Change Order.
- 8.1.3.4 Contingencies to cover costs for securing bids and material price escalations;
- 8.1.3.5 Allowances and a statement of their basis; and
- 8.1.3.6 The **Constructor's Fee**.

Based on information provided by the **Owner**, the Construction Budget shall include the cost of labor, materials or equipment associated with **Owner**-supplied equipment for the Project, whether installed by the **Constructor** or others. The Construction Budget shall not include compensation for the Designer or the costs of land, rights of way, financing or other items for which **Owner** is responsible.

8.1.4 The CPD Team shall use diligent efforts to design the Project so that it may be constructed without exceeding the Construction Budget. The Construction Budget cannot be revised without **Owner** approval, which approval may not be given.

**8.1.5 TARGET VALUE PRICING** The **Constructor** and Trade Contractors shall provide Target Value Design support services to support the explicit premise that value, cost, schedule and constructability are basic components of the design criteria. Those efforts shall include Target Value Pricing, which involves ongoing cost information and estimates of portions of the Work, systems under consideration and such other cost information as required by the Management Group. Target Value Pricing shall include the development of the cost models described in Paragraph 8.2 but shall be on-going and not await the completion of the various stages of design development.

**8.2 COST MODELING** The **Constructor** shall provide on-going cost modeling to inform and promote its Target Value Design efforts and those of Trade Contractors, as described in this article and Article 6. The **Constructor** shall generate cost model reports at such times and in such manner as described herein, or as otherwise direct by the Management Group. If a BIM approach to design and construction of the Project is being utilized, then cost model reports shall be generated at appropriate milestones as designated by the Management Group.

**8.2.1 PRELIMINARY COST MODEL** When Project requirements and design concepts have been sufficiently developed, as determined by the Management Group, the **Constructor**, with the assistance of and in collaboration with Trade Contractors, the **Owner** and Designer, shall prepare a Preliminary Cost Model. The Preliminary Cost Model shall employ utilizing area, volume or similar conceptual estimating techniques, and shall identify all of the major building systems, the quantity and unit cost (or cost per square foot) of each work item, a summary of anticipated construction costs for each part of the Project, and all major assumptions underlying pricing. The Preliminary Cost Model shall be reviewed and approved by the Management Group, and thereafter provide the foundation for Target Value Design efforts.

**8.2.2 SCHEMATIC DESIGN COST MODEL** In the absence of a BIM approach, when the Designer has prepared and completed Schematic Design Documents, the **Constructor**, with the

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assistance of Trade Contractors, shall update the Preliminary Cost Model and submit a Schematic Design Cost Model to the Management Group for its review and approval.

**8.2.3 DESIGN DEVELOPMENT COST MODEL** In the absence of a BIM approach, when the Designer has prepared and completed Design Development Documents, the **Constructor**, with the assistance of Trade Contractors, shall update the Schematic Design Cost Model and submit a Design Development Cost Model to the Management Group for its review and approval.

**8.2.4 CONSTRUCTION DOCUMENT COST MODEL** In the absence of a BIM approach, when the Designer's completion of Construction Documents reaches approximately fifty percent (50%) the **Constructor**, with the assistance of Trade Contractors, shall update the Design Development Cost Model and submit a Construction Documents Cost Model to the Management Group for its review and approval.

**8.2.5 ESTIMATED COST OF THE WORK** When the Construction Documents reach one hundred percent (100%) completion, the **Constructor** shall, with the assistance of Trade Contractors, prepare an Estimate of the Cost of the Work in such detail and in such format as required by the Management Group. The Estimate of the Cost of the Work shall provide the basis for the development of the PTCE.

**8.2.6 CONTINGENCIES IN COST MODELS** Cost models prepared by the **Constructor** may contain Construction Phase, Escalation and Permitting contingencies as approved by the Management Group.

**8.2.7 COST MODEL RECONCILIATION** Cost models shall be reviewed on an ongoing basis to determine if the models conform to approved budgets and target costs developed as part of Target Value Design efforts. To the extent cost models do not conform with budgets and target costs, the Management Group shall give direction on what actions shall be taken by members of the CPD Team.

**8.2.8 ACCOUNTING RECORDS** The **Constructor** and Trade Contractors shall maintain cost accounting records on Work performed under unit costs, actual costs for labor and materials, or other similar methods; afford the Management Group access to these records; and preserve them for a period of three (3) years after final payment.

## 8.3 PROJECT TARGET COST ESTIMATE

**8.3.1 PROJECT TARGET COST ESTIMATE** At such time as the Management Group determines that the project design is sufficiently complete, the **Owner**, Designer and **Constructor** shall jointly develop a Project Target Cost Estimate (PTCE) in a format acceptable to the Management Group. Unless the Parties mutually agree otherwise, the Project Target Cost Estimate shall be the sum of:

**8.3.1.1** The **Owner's** own Project design and construction-related costs, as agreed upon by the Parties;

**8.3.1.2** The Designer's total costs for Project design and design implementation;

**8.3.1.3** The **Constructor's** construction costs, including:

.a the estimated Cost of the Work

.b A Construction Phase Contingency to cover costs which are properly reimbursable as a Cost of the Work but are not the basis for a Change Order.

.c A Design Contingency if the drawings and specifications are not complete;

.d A Permitting contingency to address changes required by permitting agencies;

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- .e Allowances and a statement of their basis;
- .f General Conditions; and
- .g The **Constructor's Fee**.

## 8.3.2 CONTINGENCIES

**8.3.2.1 FURTHER DESIGN DEVELOPMENT** If the drawings and specifications are not complete at the time the PTCE is developed and submitted to the Management Group, the PTCE shall provide for final development of the design documents. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which if required, shall be incorporated by Change Order.

**8.3.2.2 PERMIT CONTINGENCY** Subject to the approval of the Management Group, the PTCE shall include a contingency to cover any changes in the requirements of permitting agencies as part of their approval of Construction Documents.

**8.3.2.3 CONSTRUCTION CONTINGENCY** The PTCE shall include a contingency for all additional Costs of the Work that may be incurred by **Constructor**, Trade Contractors or Subcontractors during construction that do not provide the basis for a Change Order. The **Constructor's** use of this contingency shall be subject to the prior approval of the Management Group. Unused contingency funds shall be used to fund the incentive programs described in Article 11.

**8.3.3 BASIS OF PROJECT TARGET COSTS ESTIMATE** The PTCE shall include a written statement of its basis, which shall include:

**8.3.3.1** a list of the drawings and specifications, including all addenda, which were used in preparation of the PTCE;

**8.3.3.2** a list of allowances and a statement of their basis;

**8.3.3.3** a list of the assumptions and clarifications made in the preparation of the PTCE to supplement the Information contained in the drawings and specifications;

**8.3.3.4** the Date of Substantial Completion or the Date of Final Completion upon which the proposed PTCE is based, and the Schedule of Work upon which the Date of Substantial Completion or the Date of Final Completion is based;

**8.3.3.5** a schedule of applicable alternate prices;

**8.3.3.6** a schedule of applicable unit prices;

**8.3.3.7** a statement of Additional Services included, if any;

**8.3.3.8** the **Constructor's** Construction Contingency;

**8.3.3.9** the Design Contingency;

**8.3.3.10** a statement identifying any patented or copyrighted materials, methods or systems incorporated in the Work that are likely to require the payment of royalties or license fees;

**8.3.3.11** a statement of the estimated cost and a schedule of values organized by trade categories, allowances, contingencies permitted by this Agreement, self-performed work, and other items and the fee that comprise the PTCE; and

**8.3.3.12** A detailed budget and breakdown of all General Conditions and jobsite management expenses included within the PTCE.

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**8.3.4 REVIEW AND ADJUSTMENT TO PTCE** The Management Group shall meet to review the PTCE. In the event that the Management Group has any comments relative to the PTCE Proposal, or finds any inconsistencies or inaccuracies in the information presented, it shall give prompt written notice of such comments or findings to the Parties, who shall make appropriate adjustments to the PTCE, its basis or both.

**8.3.5 PTCE PROPOSAL EXCEEDS CONSTRUCTION BUDGET** If the PTCE Proposal exceeds the Project Budget:

8.3.5.1 The **Owner** may give written approval to increase the Project Budget;

8.3.5.2 The Management Group may authorize rebidding or renegotiating all or any portion of the Project, within such time period as required by the Management Group;

8.3.5.3 The Management Group may direct the CPD Team to collaborate on revising the Project scope to bring it within the Project Budget, and the Designer, as necessary, shall revise the drawings and specifications to allow the PTCE to be reduced to one hundred percent (100%) of the Project Budget;

8.3.5.4 The **Owner** may elect to terminate the Project.

If the Management Group determines that changes in market conditions or other conditions beyond the control of the CPD Team are the cause for the PTCE Proposal exceeding the Project Budget, the Management Group may authorize reimbursement for such services from applicable contingency funds.

**8.3.6 ACCEPTANCE OF PROJECT TARGET CONTROL ESTIMATE PROPOSAL** Upon acceptance by the Management Group of the PTCE, the PTCE and its basis shall be set forth in Amendment No. 1. The PTCE shall be subject to adjustment as provided in this Agreement.

**8.3.7 LIMITATION ON CHANGES** Subject to its right to access the contingencies, **Constructor** shall use its diligent efforts to complete the Project for the compensation stated in the PTCE. Based on its collaboration in the preconstruction phase of the Project, the **Constructor** agrees that it shall not be entitled to an increase in the PTCE for work that **Constructor** or any other CPD Team Member might otherwise claim as a Change Order or extra work unless the change is the result of: (a) material change in the scope of work; (b) a change required by regulatory authorities (including inspections) that was not reasonably ascertainable from the Contract Documents; (c) Differing Site Conditions; (d) a Compensable Delay; or (e) a claim for which the **Owner** is found liable. Nothing in this paragraph shall preclude **Constructor** from using the contingencies for properly incurred Costs of the Work that are attributable to causes for which a change order is prohibited by this paragraph.

## ARTICLE 9

### DESIGNER'S COMPENSATION

#### 9.1 COMPENSATION FOR BASIC SERVICES

9.1.1 For Basic Services, the **Owner** shall compensate the Designer on the following basis, including applicable sales taxes (indicate applicable options):

\_\_\_ .1 The actual cost of the following:

a. Designer's personnel as listed in Exhibit B.

b. Services of consultants and subcontractors at a multiple of \_\_\_\_\_ (\_\_\_) times the amount billed to the Designer for such services.

c. Reimbursable Expenses incurred in connection with Basic Services, as described by

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exhibit to this Agreement, at their actual cost.

9.1.2 The Designer's Fee paid in proportion to the Services performed subject to adjustment as provided in Subparagraph 9.1.3. The Designer's Fee shall cover normal, non-Project overhead and normal profit.

The Designer's compensation to be paid shall be limited by the PTCE established in Amendment No. 1, as the PTCE may be adjusted, and subject to the incentive and risk sharing provisions of Article 11.

9.1.2 DESIGNER'S FEE The Designer's Fee shall be comprised of normal, non-Project overhead and normal profit, and shall be as follows, subject to adjustment as provided in Subparagraph 9.1.1:

(State whether a stipulated sum or other basis. If a stipulated sum, state what portion of the sum shall be payable each month.)

9.1.3 ADJUSTMENT IN THE DESIGNER'S FEE Adjustment in the Designer's Fee shall be made as follows:

9.1.3.1 for changes in the Designer's Services, the Designer's Fee shall be adjusted as follows:

9.1.3.2 for delays in the Project not caused by the Designer, there shall be an equitable adjustment in the Designer's Fee to compensate the Designer for increased expenses.

## 9.2 ADDITIONAL SERVICES AND REIMBURSABLE EXPENSES

9.2.1 The Designer shall be compensated for Additional Services as mutually agreed upon by the Designer and Management Group on the following basis:

## ARTICLE 10

### CONSTRUCTOR'S COMPENSATION

10.1 The **Owner** shall compensate the **Constructor** for Work performed on the following basis:

10.1.1 for Preconstruction Services, as follows:

(State whether a stipulated sum, actual cost, or other basis. If a stipulated sum, state what portion of the sum shall be payable each month).

10.1.2 the Cost of the Work as allowed in Article 17; and

10.1.3 the **Constructor's Fee** paid in proportion to the Work performed subject to adjustment as provided in Paragraph 10.4.

10.2 The compensation to be paid shall be limited to the PTCE established in Amendment No. 1, as the PTCE may be adjusted and subject to the incentive and risk sharing provisions of Article 11.

10.3 CONSTRUCTOR'S FEE The **Constructor's Fee** shall be comprised of normal, non-Project overhead and normal profit, and shall be as follows, subject to adjustment as provided in Paragraph 10.4:

(State whether a stipulated sum or other basis. If a stipulated sum, state what portion of the sum shall be payable each month.)

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10.4 ADJUSTMENT IN THE CONSTRUCTOR'S FEE Adjustment in the **Constructor's Fee** shall be made as follows:

10.4.1 for changes in the Work as provided in Article 20, the **Constructor's Fee** shall be adjusted as follows:

10.4.2 for delays in the Work not caused by the **Constructor**, provided in Paragraph 15.6, there shall be an equitable adjustment in the **Constructor's Fee** to compensate the **Constructor** for increased expenses; and

10.4.3 if the **Constructor** is placed in charge of managing the replacement of an insured or uninsured loss, the **Constructor** shall be paid an additional fee in the same proportion that the **Constructor's Fee** bears to the estimated Cost of the Work for the replacement.

## ARTICLE 11

### INCENTIVES AND RISK SHARING

11.1 GOAL **Owner**, Designer and **Constructor** believe that by forming the CPD Team and implementing Collaborative Project Delivery, wasted cost and time will be eliminated from the design and construction process, the quality of the final product will be improved, and the project will be safer, all while increasing the return on investment for CPD Team Members.

11.2 FINANCIAL INCENTIVE PROGRAM In support of Collaborative Project Delivery, the Management Group shall develop a financial incentive program to encourage superior performance based upon **Owner's** Collaborative Project Delivery goals and to reward the CPD Team for successfully achieving superior performance and successfully exceeding the project expectations and benchmarks. The method, manner, amounts and timing of any payments made as a result of the financial incentives program shall be detailed and specified in an amendment to this Agreement.

11.3 Characteristics of Program Any incentive program should provide a basis for continually monitoring and reviewing the project team's performance, providing the team with periodic performance information to allow corrections or modifications during project performance to improve the quality of the services provided. The program should be funded with project savings as evidenced by contingency preservation and reduction in the Project's Costs of the Work as compared to the amounts contained within the PTCE. The program should consider performance in the following areas: cost, quality, safety, schedule, planning system reliability, innovative design, construction processes and teamwork.

11.4 SAVINGS To the extent the actual cost of the Project is less than the PTCE, the Parties shall share in such savings on the following basis:

(Indicate agreed upon percentages or other basis for sharing).

11.5 LOSSES In the event the actual cost of the Project exceeds the PTCE, such costs: (Indicate applicable Loss Allocation approach):

\_\_\_ .1 Shall be borne by the **Owner**.

\_\_\_ .2 Shall be shared by the Parties on the following basis (Indicate agreed upon percentages or other basis for sharing):

11.6 LOSS LIMITS To the extent the Parties elect to share costs in excess of the PTCE in accordance with Subparagraph 11.5.2, the Designer's and **Constructor's Fees**, as defined in Subparagraph 9.1.2 and Paragraph 10.3,

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are

are not (select one)

at risk and the total amount of each Fee

shall

shall not (select one)

represent the Designer's and **Constructor's** limit of liability for losses apportioned pursuant to Paragraph 11.5.

## ARTICLE 12

### TRADE CONTRACTORS SUBCONTRACTORS, SUPPLIERS AND DESIGN CONSULTANTS

**12.1 PARTICIPATION IN COLLABORATION** The **Constructor** may contract with key Trade Contractors and Suppliers during early Project design to provide preconstruction services and facilitate an integrated, collaborative design process, subject to the approval of the Management Group. Approved Trade Contractors and Suppliers shall sign Joining Agreements, as they become members of the CPD Team, accepting the principles and methods of collaboration set forth in this Agreement. A Trade Contractor may continue to serve as a Subcontractor during construction when the Management Group determines that its performance merits continued participation and accepts its price proposal. Approved Trade Contractors, Subcontractors and Suppliers shall contract directly with the **Constructor**.

**12.2 SOLICITATION AND SELECTION** The **Constructor** shall develop Trade Contractor, Subcontractor and Supplier interest in the Project and, in collaboration with the Management Group, develop a list of potential Trade Contractors, Subcontractors and Suppliers from whom proposals will be requested. Proposed Trade Contractors, Subcontractors and Suppliers must possess the qualifications, experience and financial resources to complete the work for which they are being proposed. The Management Group's approval of the inclusion of any Trade Contractor, Subcontractor or Supplier on the list of potential participants shall not constitute a waiver of the right of the Management Group later to object to or reject any proposed Trade Contractor, Subcontractor or Supplier.

**12.3 SELF-PERFORMED WORK** If **Constructor** proposes to self-perform a particular scope of work, it shall provide the Management Group with its qualifications to perform the work. If requested by the Management Group, **Constructor** may need to obtain at least two bona fide price proposals for work that is proposed to be self-performed.

**12.4 REPLACEMENT** The **Constructor** shall not remove or replace a Trade Contractor, Subcontractor or Supplier previously selected if any Management Group Member makes reasonable objection to the proposed substitution. The Management Group may direct **Constructor** to replace any Trade Contractor, Subcontractor or Supplier to whom the Management Group has reasonable objection.

**12.5 TRADE CONTRACTOR COORDINATION DRAWINGS** During the preconstruction phase, Trade Contractors shall participate in the preparation of coordination drawings to identify routing and eliminate conflicts among the work of various Trade Contractors, Subcontractors and Suppliers. Trade Contractor coordination drawings shall be provided to the Designer together with other information that should be included in the Design Documents, including the Contract Documents that are submitted for permitting.

**12.6 DESIGN-BUILD WORK** To the extent any of the Work is to be performed by the **Constructor** or a Trade Contractor on a Design-Build or Design-Assist basis, the Designer shall specify all applicable performance and design criteria. The **Constructor** and Trade Contractors shall retain appropriately licensed design professionals to provide design services related to the Design-Build Work. Work to be

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performed on a design-build or design-assist basis shall be fully designed during preconstruction and shall be fully integrated into the Construction Documents that are submitted for permit or other governmental approvals. Designer shall be responsible for coordinating the design of the Design-Build Work with the design being provided pursuant to the terms of this Agreement.

12.7 DESIGN CONSULTANTS *Owner* and Designer may propose to the Management Group consultants from whom proposals will be requested to serve the Project as *Owner's* consultants or Designer's consultants. Proposed consultants must possess the qualifications, experience and financial resources to complete the service for which they are being proposed. Final selection of consultants shall be made by the Management Group. *Owner* and Design consultants shall sign Joining Agreements, as they become members of the CPD Team, accepting the principles and methods of collaboration set forth in this Agreement. *Owner* consultants and Design consultants shall be retained by the *Owner* and Designer respectively, and all fees and other charges of Design consultants are included in Designer's compensation. The Management Group's approval of the inclusion of any consultant on the list of potential participants shall not constitute a waiver of the right of the Management Group later to object to or reject any proposed consultant.

12.8 REPLACEMENT OF CONSULTANTS The *Owner* and Designer shall not remove or replace a consultant previously selected if any Management Group Member makes reasonable objection to the proposed substitution. The Management Group may direct Designer to replace any consultant or employee(s) of any consultant to whom the Management Group has reasonable objection.

12.9 DESIGNER'S CONTINUING RESPONSIBILITY The Management Group's acceptance of any consultant's credentials shall not in any way relieve Designer of any duty, responsibility or liability to *Owner* for Services provided by Designer or any of Designer's consultants. The Designer shall coordinate and be responsible and liable for the services provided by its consultants.

12.10 BINDING OF SUBCONTRACTORS AND MATERIAL SUPPLIERS The *Constructor* agrees to bind every Trade Contractor, Subcontractor and Supplier (and require every Trade Contractor and Subcontractor to so bind its subcontractors and material suppliers) to all the provisions of this Agreement and the Contract Documents as they apply to the Trade Contractor's, Subcontractor's and Supplier's portions of the Work.

12.11 LABOR RELATIONS (Insert here any conditions, obligations or requirements relative to labor relations and their effect on the Project. Legal counsel is recommended.)

## ARTICLE 13

### CONSTRUCTION OPERATIONS

#### 13.1 CONSTRUCTION PERSONNEL AND SUPERVISION

13.1.1 The *Constructor* shall provide competent supervision for the performance of the Work. Before commencing the Work, *Constructor* shall notify *Owner* in writing of the name and qualifications of its proposed superintendent(s) and project manager so *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, *Constructor* shall name a different superintendent or project manager for *Owner's* review. Any disapproved superintendent shall not perform in that capacity thereafter at the Worksite.

13.1.2 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.

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13.1.3 The **Constructor** shall permit only skilled 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 on receipt of the **Owner's** written notice to do so.

13.2 QUALITY PLAN The **Constructor**, Trade Contractors and Subcontractors shall submit to the Management Group for its approval a construction operations quality plan that addresses the following:

- 13.2.1 the removal of clutter and all unnecessary items from the work environment;
- 13.2.2 locating items that will be used during construction so as to facilitate their efficient and responsible use;
- 13.2.3 creating an orderly and clean workspace with continuous inspection and clean-up;
- 13.2.4 standardizing and constantly improving construction operation practices;
- 13.2.5 creating a culture of discipline and continuous improvement.

13.3 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.

13.4 MATERIALS FURNISHED BY THE OWNER OR OTHERS In the event 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 may be deducted from any amounts due or to become due the **Constructor**. 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.

## 13.5 TESTS AND INSPECTIONS

13.5.1 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. The **Owner** shall bear all expenses associated with tests, inspections and approvals required by the Contract Documents, except as provided in Subparagraph 13.6.3, and 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 certificates of testing, approval or inspection shall be secured by the **Constructor** and promptly delivered to the **Owner**.

13.5.2 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 Subparagraph 13.6.3.

13.5.3 If the procedures described in Paragraph 13.6 indicate that portions of the Work fail to comply with the Contract Documents, the **Constructor** shall be responsible for costs of correction

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and retesting.

## 13.6 WARRANTY

13.6.1 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 pursuant to this Paragraph 13.6 shall commence on the Date of Substantial Completion.

13.6.2 With respect to any portion of Work first performed after Substantial Completion, the **Constructor's** warranty obligation shall be extended by the period of time between Substantial Completion and the actual performance of the later Work.

13.6.3 The **Constructor** shall obtain from its Subcontractors and Material Suppliers any special or extended warranties required by the Contract Documents. All such warranties shall be listed in an addendum to this Agreement. **Constructor's** liability for such warranties shall be limited to the one-year correction period referred to in Paragraph 13.7. After that period **Constructor** shall assign them to the **Owner** and provide reasonable assistance to the **Owner** in enforcing the obligations of Subcontractors or Material Suppliers.

## 13.7 CORRECTION OF WORK WITHIN ONE YEAR

13.7.1 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 promptly notify the **Constructor** in writing. 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 promptly notify the **Constructor** 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.

13.7.2 With respect to any portion of Work first performed after Substantial Completion, the one-year correction period shall be extended by the period of time between Substantial Completion and the actual performance of the later Work. Correction periods shall not be extended by corrective work performed by the **Constructor**.

13.7.3 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 Article 22. In such case, an appropriate Change Order shall be issued deducting the cost of correcting such deficiencies from payments then or thereafter due the **Constructor**. If payments then or thereafter due **Constructor** are not sufficient to cover such amounts, the **Constructor** shall pay the difference to the **Owner**.

13.7.4 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, promptly notify the **Constructor**. 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

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**Owner.** The **Constructor** shall complete the correction of Work within a mutually agreed time frame. If the **Constructor** does not elect to correct the Work, the **Owner** may have the Work corrected by itself or Others and charge the **Constructor** for the reasonable cost of the correction. **Owner** shall provide **Constructor** with an accounting of correction costs it incurs.

13.7.5 If the **Constructor's** correction or removal of Defective Work causes damage to or destroys other completed or partially completed construction, the **Constructor** shall be responsible for the cost of correcting the destroyed or damaged construction.

13.7.6 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.

13.7.7 Prior to final payment, at the **Owner's** option and with the **Constructor's** agreement, the **Owner** may elect to accept Defective Work rather than require its removal and correction. In such case the PTCE shall be equitably adjusted.

## 13.8 CORRECTION OF COVERED WORK

13.8.1 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.

13.8.2 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 Work shall be replaced at the **Constructor's** expense and with no adjustment to the Contract Time.

## 13.9 SAFETY OF PERSONS AND PROPERTY

13.9.1 SAFETY PRECAUTIONS AND PROGRAMS The **Constructor** shall have overall responsibility for safety precautions and programs in the performance of the Work. While this Paragraph 13.9 establishes the responsibility for safety between the **Owner**, **Constructor** and Designer, it does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with the provisions of applicable laws and regulations.

13.9.2 The **Constructor** shall seek to avoid injury, loss or damage to persons or property by taking reasonable steps to protect:

13.9.2.1 its employees and other persons at the Worksite;

13.9.2.2 materials and equipment stored at on-site or off-site locations for use in the Work; and

13.9.2.3 property located at the site and adjacent to Work areas, whether or not the property is part of the Work.

13.10 CONSTRUCTOR'S SAFETY REPRESENTATIVE The **Constructor's** Worksite Safety Representative is \_\_\_\_\_ who shall act as the **Constructor's** authorized safety representative with a duty to prevent accidents in accordance with Subparagraph 13.10.2. If no individual is identified in this Paragraph 13.10, the authorized safety representative shall be the **Constructor's** Representative. The **Constructor** shall report immediately in writing to the **Owner** all recordable accidents and injuries occurring at the Worksite. When the

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**Constructor** is required to file an accident report with a public authority, the **Constructor** shall furnish a copy of the report to the **Owner**.

13.10.1 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.

13.10.2 Damage or loss not insured under property insurance which may arise from the Work, to the extent of the negligence attributed to acts or omissions of the **Constructor**, or anyone for whose acts the **Constructor** may be liable, shall be promptly remedied by the **Constructor**.

13.10.3 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 PTCE. The **Constructor** agrees to make no claim for damages, for an increase in the PTCE or for a change in the Contract Time based on the **Constructor's** compliance with the **Owner's** reasonable request.

## 13.11 EMERGENCIES

13.11.1 In an emergency, the **Constructor** shall act in a reasonable manner to prevent personal injury or property damage. Any change in the PTCE or Contract Time resulting from the actions of the **Constructor** in an emergency situation shall be determined as provided in Article 20.

## 13.12 HAZARDOUS MATERIALS

13.12.1 A Hazardous Material is any substance or material identified now or in the future as hazardous under any federal, state or local law or regulation, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirement governing handling, disposal or cleanup. 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** as certified by an independent testing laboratory and approved by the appropriate government agency.

13.12.2 If after the commencement of 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 report the condition to the **Owner**, the Designer, and, if required, the government agency with jurisdiction.

13.12.3 The **Constructor** shall not be required to perform any Work relating to or in the area of Hazardous Material without written mutual agreement.

13.12.4 The **Owner** shall be responsible for retaining an independent testing laboratory to determine 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 effects 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.

13.12.5 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 PTCE or the Contract Time.

13.12.6 To the extent not caused by the negligent acts or omissions of the **Constructor**, its

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Subcontractors and Sub-subcontractors, and the agents, officers, directors and employees of each of them, the **Owner** shall defend, indemnify and hold harmless the **Constructor**, its Subcontractors and Sub-subcontractors, and the agents, officers, directors and employees of each of them, from and against any and all direct claims, damages, losses, costs and expenses, including but not limited to attorneys' fees, costs and expenses incurred in connection with any dispute resolution process, arising out of or relating to the performance of the Work in any area affected by Hazardous Material. To the fullest extent permitted by law, such indemnification shall apply regardless of the fault, negligence, breach of warranty or contract, or strict liability of the **Owner**.

## 13.12.7 MATERIALS BROUGHT TO THE WORKSITE

13.12.7.1 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.

13.12.7.2 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.

13.12.7.3 To the extent not caused by the negligent acts or omissions of the **Owner**, its agents, officers, directors and employees, the **Constructor** shall indemnify and hold harmless the **Owner**, its agents, officers, directors and employees, from and against any and all direct claims, damages, losses, costs and expenses, including but not limited to attorneys' fees, costs and expenses 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. To the fullest extent permitted by law, such indemnification shall apply regardless of the fault, negligence, breach of warranty or contract, or strict liability of the **Constructor**.

13.12.8 The terms of this Paragraph 13.12 shall survive the completion of the Work or any termination of this Agreement.

## 13.13 SUBMITTALS

13.13.1 The **Constructor** shall submit to the **Owner**, and, if directed, to its Designer, for review and approval all shop drawings, samples, product data and similar submittals required by the Contract Documents. Submittals may be submitted in electronic form if required. The **Constructor** shall be responsible to the **Owner** and Designer for the accuracy and conformity of its submittals to the Contract Documents. The **Constructor** shall prepare and deliver its submittals to the **Owner** 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. When the **Constructor** delivers its submittals to the **Owner**, the **Constructor** shall identify in writing for each submittal all changes, deviations or substitutions from the requirements of the Contract Documents. The review and approval 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. Such approval shall be promptly memorialized in a Change Order and, if applicable, provide for an equitable adjustment in the PTCE or Contract Time. Further, the **Owner** shall not make any change, deviation or substitution through the submittal process without specifically identifying and authorizing such deviation to the **Constructor**. In the event that the Contract Documents do not contain submittal requirements pertaining to the Work, the **Constructor** agrees upon request to

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submit in a timely fashion to the **Owner** for review and approval any shop drawings, samples, product data, manufacturers' literature or similar submittals as may reasonably be required by the **Owner**.

13.13.2 The Designer shall be responsible for review and approval of submittals with reasonable promptness to avoid causing delay.

13.13.3 The **Constructor** shall perform all Work strictly in accordance with approved submittals. Approval of shop drawings is not authorization to **Constructor** to perform Changed Work, unless the procedures of Article 20 are followed. Approval does not relieve the **Constructor** from responsibility for Defective Work resulting from errors or omissions of any kind on the approved Shop Drawings.

13.13.4 Record copies of the following, incorporating field changes and selections made during construction, shall be maintained at the Project site 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.

13.13.5 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.

13.13.6 The **Constructor** shall prepare and submit to the **Owner**

(Check one only)

final marked up as-built drawings,

or

updated electronic data

or

such documentation as defined by the Parties by attachment to this Agreement,

in general documenting how the various elements of the Work were actually constructed or installed.

13.14. CONCEALED OR UNKNOWN SITE CONDITIONS If the conditions at the Worksite are (a) subsurface or other physical conditions which are materially different from those indicated in the Contract Documents, or (b) unusual or unknown physical conditions which are materially different from conditions ordinarily encountered and generally recognized as inherent in Work provided for in the Contract Documents, the **Constructor** shall stop Work and give immediate written notice of the condition to the **Owner** and the Designer. The **Constructor** shall not be required to perform any work relating to the unknown condition without the written mutual agreement of the Parties. Any change in the PTCE or the Contract Time as a result of the unknown condition shall be determined as provided in this Article. The **Constructor** shall provide the **Owner** with written notice of any claim as a result of unknown conditions within the time period set forth in Paragraph 20.4.

## 13.15 PERMITS AND TAXES

13.15.1 **Constructor** shall give public authorities all notices required by law and, except for permits and fees which are the responsibility of the **Owner** pursuant to Paragraph 6.4, shall obtain and pay for all necessary permits, licenses and renewals pertaining to the Work. **Constructor** shall provide to **Owner** copies of all notices, permits, licenses and renewals required under this Agreement.

13.15.2 **Constructor** shall pay all applicable taxes legally enacted when bids are received or

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negotiations concluded for the Work provided by the **Constructor**.

13.15.3 The PTCE or Contract Time shall be equitably adjusted by Change Order for additional costs resulting from any changes in laws, ordinances, rules and regulations enacted after the date of this Agreement, including increased taxes.

13.15.4 If in accordance with the **Owner's** direction, the **Constructor** claims an exemption for taxes, the **Owner** shall indemnify and hold the **Constructor** harmless from any liability, penalty, interest, fine, tax assessment, attorneys' fees or other expense or cost incurred by the **Constructor** as a result of any such action.

## 13.16 CUTTING, FITTING AND PATCHING

13.16.1 The **Constructor** shall perform cutting, fitting and patching necessary to coordinate the various parts of the Work and to prepare its Work for the work of the **Owner** or Others.

13.16.2 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.

## 13.17 CLEANING UP

13.17.1 The **Constructor** shall regularly remove debris and waste materials at the Worksite 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.

13.17.2 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 the cost shall be deducted from any amounts due or to become due the **Constructor**.

13.18 ACCESS TO WORK The **Constructor** shall facilitate the access of the **Owner**, Designer and Others to Work in progress.

## ARTICLE 14

### DESIGNER'S CONSTRUCTION PHASE SERVICES

14.1 CONSTRUCTION ADMINISTRATION The Designer shall provide Construction Administration until Final Payment is due and, thereafter during the one (1)-year warranty period as the **Owner** may reasonably request. Designer shall have authority to act on behalf of **Owner** only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

14.2 SITE VISITS Designer will visit the site at intervals appropriate to the stage of construction to become familiar with the progress and quality of the Work and to determine if the Work is proceeding in accordance with the Contract Documents. However, Designer shall not be required to make exhaustive or continuous on-site inspections to check quality or quantity of the Work. On the basis of such on-site observations as a designer, Designer shall report to the Management Group concerning the progress and quality of the Work, and promptly alert the Management Group of any nonconformance or condition observed which might adversely affect the Work or the Project budget. Designer shall submit a written report as required in the project communications protocol.

14.3 ON SITE REPRESENTATIVE As required by the Management Group, Designer shall provide on-site Project representatives to assist in carrying out Designer's responsibilities. The duties,

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responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

14.4 MEANS AND METHODS Designer shall have no control over nor charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work. Designer shall not be responsible for **Constructor's** failure to perform the Work in accordance with the requirements of the Contract Documents, nor shall it have control over nor charge of, nor be responsible for, acts or omissions of **Constructor**, Trade Contractors, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work. Notwithstanding the foregoing, if Designer observes any defect, deficiency or nonconformity in the Work, it shall immediately notify the Management Group.

## ARTICLE 15

### TIME

15.1 CONTRACT TIME The Contract Time is the period of time, including authorized adjustments, allotted in the PTCE or elsewhere in the Contract Documents for Substantial Completion of the Work. Time limits stated in the Contract Documents are of the essence of this Agreement.

15.2 DATE OF COMMENCEMENT The Date of Commencement is the effective date of this Agreement as first written in Article 1 unless otherwise established in the Notice to Proceed. Unless instructed by the Management Group in writing, the **Constructor** shall not knowingly commence the Work before the effective date of insurance that is required to be provided for the benefit of the Project and the CPD Team members.

15.3 SUBSTANTIAL COMPLETION Unless the Management Group establishes otherwise, the Date of Substantial Completion shall be established in the PTCE Amendment to this Agreement subject to adjustments as provided for in the Contract Documents. The date shall be certified by the Management Group in the Certificate of Substantial Completion.

15.4 FINAL COMPLETION Unless the Management Group establishes otherwise, the Date of Final Completion shall be achieved within \_\_\_\_\_ ( ) Days after the date of Substantial Completion, subject to adjustments as provided for in the Contract Documents.

15.5 Time limits stated in the Contract Documents are of the essence.

#### 15.6 DELAYS IN THE WORK

15.6.1 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: acts or omissions of the **Owner**, the Designer or Others; 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; transportation delays not reasonably foreseeable, labor disputes not involving the **Constructor**, general labor disputes impacting the Project but not specifically related to the Worksite, fire, terrorism, governmental agencies, unavoidable accidents or circumstances, adverse weather conditions not reasonably anticipated, encountering Hazardous Materials, concealed or unknown conditions, delay authorized by the **Owner** pending dispute resolution and suspension by the **Owner**. The **Constructor** shall process any requests for equitable extensions of Contract Time in accordance with the provisions of this Agreement.

15.6.2 In addition, if the **Constructor** incurs additional costs as a result of a delay that is caused by acts or omissions of the **Owner**, the Designer or Others, 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

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performance of the Work, encountering Hazardous Materials, or concealed or unknown conditions, delay authorized by the **Owner** pending dispute resolution and suspension by the **Owner**, the **Constructor** shall be entitled to an equitable adjustment in the PTCE.

15.6.3 NOTICE OF DELAYS In the event 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 **Constructor** first recognizes the delay. The **Owner** and **Constructor** agree to undertake reasonable steps to mitigate the effect of such delays.

15.7 NOTICE OF DELAY CLAIMS If the **Constructor** requests an equitable extension of Contract Time or an equitable adjustment in PTCE as a result of a delay described in Paragraph 15.6, the **Constructor** shall give the **Owner** written notice of the claim in accordance with Paragraph 20.4. If the **Constructor** causes delay in the completion of the Work, the **Owner** shall be entitled to recover its additional costs subject to Subparagraphs 3.8.2 and 3.8.3. The **Owner** shall process any such claim against the **Constructor** in accordance with Article 23.

15.8 MITIGATION In the event delays to the Project are encountered for any reason, the Parties agree to undertake reasonable steps to mitigate the effect of such delays.

## ARTICLE 16

### DESIGNER'S PAYMENT

#### 16.1 PAYMENTS

16.1.1 The Designer shall submit to the **Owner** for its approval monthly applications for payment for Basic and Additional Services and Reimbursable Expenses, if any, with reasonable supporting detail. The **Owner** shall pay approved amounts no later than thirty (30) Days after the Designer has submitted its applications for payment. No matter how computed in Article 16, payments for Basic Services (indicate basis for payment):

\_\_\_ .1 shall not exceed the following percentages of the total Fee for Basic Services at the completion of each phase or progression of the Designer's Services:

Schematic Design Documents \_\_\_%

Design Development Documents \_\_\_%

Construction Documents \_\_\_%

Bidding or negotiation assistance \_\_\_%

Construction \_\_\_%

TOTAL 100%

or

\_\_\_ .2 shall not exceed the following lump sum amounts for each phase or progression of the Designer's Services:

Schematic Design Documents \_\_\_\_\_ dollars (\$\_\_\_\_\_)

Design Development Documents \_\_\_\_\_ dollars (\$\_\_\_\_\_)

Construction Documents \_\_\_\_\_ dollars (\$\_\_\_\_\_)

Bidding or negotiation assistance \_\_\_\_\_ dollars (\$\_\_\_\_\_)

Construction Phase \_\_\_\_\_ dollars (\$\_\_\_\_\_)

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Upon receipt of payment from the **Owner**, Designer shall promptly make payment to its consultants as appropriate.

16.2 Prior to final payment to the Designer, the Designer shall furnish evidence satisfactory to the **Owner** that there are no claims, obligations or liens outstanding in connection with its Services. Acceptance of final payment shall constitute a waiver of all claims by the Designer for compensation for its Services.

16.3 Should there be any claim, obligation or lien asserted before or after final payment is made that arises from the Designer's Services, the Designer shall reimburse the **Owner** for any costs and expenses, including attorneys' fees, costs and expenses, incurred by the **Owner** in satisfying, discharging or defending against any such claim, obligation or lien, including any action brought or judgment recovered, provided the **Owner** is making payments or has made payments to the Designer in accordance with the terms of this Agreement.

16.4 Should the Designer or its consultants cause damage to the Project, or fail to perform or otherwise be in default under the terms of this Agreement, the **Owner** shall have the right to withhold from any payment due or to become due, or otherwise be reimbursed for, an amount sufficient to protect the **Owner** from any loss that may result. Payment of the amount withheld shall be made when the grounds for the withholding have been removed.

16.5 The Designer's expense records shall be maintained in accordance with generally accepted accounting principles and shall be available to the **Owner** at mutually convenient times for all Services to be compensated on the basis of actual cost.

## ARTICLE 17

### COST OF WORK

17.1 **COST OF THE WORK** The **Owner** agrees to pay the **Constructor** for the Cost of the Work as defined in this Article. This payment shall be in addition to the **Constructor's** Fee stipulated in Paragraph 10.3.

#### 17.2 COST ITEMS

17.2.1 Wages paid for labor in the direct employ of the **Constructor** in the performance of the Work.

17.2.2 Salaries of the **Constructor's** employees when stationed at the field office, in whatever capacity employed, employees engaged on the road expediting the production or transportation of material and equipment, and employees from the principal or branch office performing the functions listed below:

17.2.3 Cost of all 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 **Constructor's** standard personnel policy, insofar as such costs are paid to employees of the **Constructor** who are included in the Cost of the Work under Subparagraphs 17.2.1 and 17.2.2.

17.2.4 Reasonable transportation, travel, hotel and moving expenses of the **Constructor's** personnel incurred in connection with the Work.

17.2.5 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.

17.2.6 Payments made by the **Constructor** to Subcontractors for work performed under this Agreement.

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17.2.7 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 on such items used, but not consumed that remain the property of the **Constructor**.

17.2.8 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.

17.2.9 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**.

17.2.10 Sales, use, gross receipts or other taxes, tariffs or duties related to the Work for which the **Constructor** is liable.

17.2.11 Permits, fees, licenses, tests, royalties, damages for infringement of patents or copyrights, including costs of defending related suits for which the **Constructor** is not responsible as set forth in Paragraph 21.6, and deposits lost for causes other than the **Constructor's** negligence.

17.2.12 Losses, expenses or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work during the Construction Phase and for a period of one year following the Date of Substantial Completion, provided that such losses, expenses, damages or corrective work did not arise from the negligence of the **Constructor**.

17.2.13 All costs associated with establishing, equipping, operating, maintaining and demobilizing the field office.

17.2.14 All costs associated with demobilizing and remobilizing the field office and the **Constructor's** workforce, including Subcontractor workforces, as a result of a suspension of the Work by the **Owner**.

17.2.15 Reproduction costs, photographs, cost of telegrams, facsimile transmissions, long-distance telephone calls, data processing services, postage, express delivery charges, telephone service at the Worksite and reasonable petty cash expenses at the field office.

17.2.16 All costs associated with a BIM approach, as required by and approved by the Management Group.

17.2.17 All water, power and fuel costs necessary for the Work.

17.2.18 Cost of removal of all non-hazardous substances, debris and waste materials.

17.2.19 Costs incurred due to an emergency affecting the safety of persons or property.

17.2.20 Legal, mediation and arbitration fees and costs, other than those arising from disputes between the **Owner** and the **Constructor**, reasonably and properly resulting from the **Constructor's** performance of the Work.

17.2.21 Additional costs resulting from laws, ordinances, rules, regulations and taxes enacted after the date of this Agreement.

17.2.22 All costs directly incurred in the performance of the Work or in connection with the Project, and not included in the **Constructor's** Fee as set forth in Article 10, which are reasonably inferable from the Contract Documents as necessary to produce the intended results.

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17.3 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.

## ARTICLE 18

### CONSTRUCTOR'S PAYMENT

#### 18.1 SCHEDULE OF VALUES

Before the first Payment Application for construction work and services, **Constructor** shall submit to the Management Group a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Management Group may require. This schedule, approved by the Management Group, shall be used as a basis for reviewing **Constructor's** Applications for Payment. Each **Constructor** Payment Application during construction shall be based on the most recent schedule of values submitted by **Constructor** in accordance with the Contract Documents. Payment Applications shall show the percentage of each portion of the Work as of the end of the period covered by the Payment Application completed in accordance with the planning documents approved by the Management Group.

#### 18.2 PROGRESS PAYMENTS

18.2.1 APPLICATIONS /The **Constructor** shall submit to the **Owner**, and if directed, Designer a monthly application for payment no later than the \_\_\_\_\_ Day of the calendar month for the preceding thirty (30) Days; or **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. /Payment applications 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, no later than twenty (20) Days after the **Constructor** has submitted a complete and accurate payment application. The **Owner** may deduct from any progress payment amounts as may be retained pursuant to Subparagraph 18.2.4.

18.2.2 STORED MATERIALS AND EQUIPMENT If approved by the **Owner**, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored on-site or off-site including applicable insurance, storage and transportation costs to the Worksite. Approval of payment applications for off-site stored materials and equipment shall be conditioned on submission by the **Constructor** of bills of sale and proof of applicable insurance, or such other procedures 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.

#### 18.2.3 LIEN WAIVERS AND LIENS

18.2.3.1 PARTIAL LIEN WAIVERS AND AFFIDAVITS If requested by the **Owner**, as a prerequisite for payment, the **Constructor** shall provide partial lien and claim waivers in the amount of the application for payment and affidavits from Trade Contractors, Subcontractors, and Material Suppliers for the completed Work. Such waivers shall be conditional upon payment. In no event shall the **Constructor** be required to sign an unconditional waiver of lien or claim, either partial or final, prior to receiving payment or in an amount in excess of what it has been paid.

18.2.3.2 RESPONSIBILITY FOR LIENS If **Owner** has made payments in the time required by this Article 18, the **Constructor** shall, within thirty (30) Days after filing, cause the removal

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of any liens filed against the premises or public improvement fund by any Party or Parties performing labor or services or supplying materials in connection with the Work and covered by such payments. If the **Constructor** fails to take such action on a lien, the **Owner** may cause the lien to be removed at the **Constructor's** expense, including bond costs and reasonable attorneys' fees. This Paragraph shall not apply if there is a dispute pursuant to Article 23 relating to the subject matter of the lien.

18.2.4 **RETAINAGE** From each progress payment made prior to Substantial Completion, the **Owner** may retain \_\_\_\_\_ percent (\_\_\_%), of the **Constructor's** Fee amount otherwise due after deduction of any amounts as provided in Paragraph 18.3, up to the time of final payment.

18.2.4.1 At the discretion of the Management Group, retention may be withheld equal to ten percent (10%) on lump sum Subcontractors and one percent (1%) on Trade Contractors on payments to be made to subcontractors, **Constructor** self-performed work and **Constructor's** Fee. No retention shall be withheld on the Cost of the Work except as stated above. The Payment Application shall be reduced for amounts for which the Management Group has withheld or nullified a Certificate for Payment as provided in the Contract Documents.

18.3 **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 protect the **Owner** from loss or damage based upon the following, to the extent that the **Constructor** is responsible therefor under the Contract:

18.3.1 the **Constructor's** repeated failure to perform the Work as required by the Contract Documents;

18.3.2 loss or damage to the **Owner**, or Others arising out of or relating to this Contract and caused by **Constructor**;

18.3.3 the **Constructor's** failure to properly pay Subcontractors and Material Suppliers following receipt of such payment from the **Owner** ;

18.3.4 Defective Work not corrected in a timely fashion;

18.3.5 reasonable evidence of delay in performance of the Work such that the Work will not be completed by the Dates of Substantial or Final Completion; and

18.3.6 reasonable evidence demonstrating that the unpaid balance of the PTCE is insufficient to fund the cost to complete the Work.

The **Owner** shall give written notice to the **Constructor** at the time of disapproving or nullifying an application for payment of the specific reasons therefor. When the above reasons for disapproving or nullifying an application for payment are removed, payment will be made for the amounts previously withheld.

18.4 **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 not complying with the Contract Documents.

18.5 **PAYMENT DELAY** If for any reason not the fault of the **Constructor** the **Constructor** does not receive a progress payment from the **Owner** within seven (7) Days after the time such payment is due as defined in Subparagraph 18.2.1, then the **Constructor**, upon giving seven (7) Days' written notice to the **Owner**, and without prejudice to and in addition to any other legal remedies, may stop Work until payment of the full amount owing to the **Constructor** has been received, including interest from the date payment was due. The PTCE and Dates of Substantial or Final Completion shall be equitably adjusted by a Change Order for reasonable cost and delay resulting from shutdown, delay and start-up.

18.6 SUBSTANTIAL COMPLETION

18.6.1 The **Constructor** shall notify the Management Group when it considers Substantial Completion of the Work or a designated portion to have been achieved. The Management Group shall promptly conduct an inspection to determine whether the Work or designated portion can be occupied or utilized for its intended use by the **Owner** without excessive interference by the **Constructor** in completing any remaining unfinished Work. If the Management Group determines that the Work or designated portion has not reached Substantial Completion, the Management Group shall promptly compile a list of items to be completed or corrected so the **Owner** may occupy or utilize the Work or designated portion for its intended use. The **Constructor** shall promptly complete all items on the list.

18.6.2 When Substantial Completion of the Work or a designated portion is achieved, the **Constructor** shall prepare a Certificate of Substantial Completion that shall establish 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, and fixing the time for completion of all items on the list accompanying the Certificate. The Certificate of Substantial Completion shall be submitted by the **Constructor** to the Management Group and **Owner** for the **Owner's** written acceptance of responsibilities assigned in the Certificate.

18.6.3 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.

18.6.4 Upon acceptance by the **Owner** of the Certificate of Substantial Completion, the **Owner** shall pay to the **Constructor** the remaining retainage held by the **Owner** for the Work described in the Certificate of Substantial Completion less a sum equal to two hundred percent (200%) of the estimated cost of completing or correcting remaining items on that part of the Work, as agreed to by the **Owner** and **Constructor** as necessary to achieve Final Completion. Uncompleted items shall be completed by the **Constructor** in a mutually agreed time frame. The **Owner** shall pay the **Constructor** monthly the amount retained for unfinished items as each item is completed.

18.7 PARTIAL OCCUPANCY OR USE

18.7.1 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) public authorities authorize the occupancy or use. The **Constructor** shall not unreasonably withhold consent to partial occupancy or use. **Owner** shall not unreasonably refuse to accept partial occupancy.

18.8 FINAL COMPLETION AND FINAL PAYMENT

18.8.1 Upon notification from the **Constructor** that the Work is complete and ready for final inspection and acceptance, the Management Group shall promptly conduct an inspection to determine if the Work has been completed and is acceptable under the Contract Documents.

18.8.2 When the Work is complete, the **Constructor** shall prepare for the **Owner's** 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.

18.8.3 Final payment of the balance of the PTCE shall be made to the **Constructor** within twenty (20) Days after the **Constructor** has submitted an application for final payment, including submissions required under Subparagraph 18.8.4, and a Certificate of Final Completion has been executed by the **Owner** and **Constructor**.

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18.8.4 Final payment shall be due on the **Constructor's** submission of the following to the **Owner**:

18.8.4.1 an affidavit declaring any indebtedness connected with the Work, e.g. payrolls or invoices for materials or equipment, to have been paid, satisfied or to be paid with the proceeds of final payment, so as not to encumber the **Owner's** property;

18.8.4.2 as-built drawings, manuals, copies of warranties and all other close-out documents required by the Contract Documents;

18.8.4.3 release of any liens, conditioned on final payment being received;

18.8.4.4 consent of any surety; and

18.8.4.5 any outstanding known and unreported accidents or injuries experienced by the **Constructor**, Trade Contractors or Subcontractors at the Worksite.

18.8.5 If, after Substantial Completion of the Work, the Final Completion of a portion of the Work is materially delayed through no fault of the **Constructor**, the **Owner** shall pay the balance due for portion(s) of the Work fully completed and accepted. If the remaining contract balance for Work not fully completed and accepted is less than the retained amount prior to payment, the **Constructor** shall submit to the Management Group the written consent of any surety to payment of the balance due for portions of the Work that are fully completed and accepted. Such payment shall not constitute a waiver of claims, but otherwise shall be governed by Paragraph 18.8.

18.8.6 Claims not reserved in writing with the making of final payment shall be waived except for claims relating to liens or similar encumbrances, warranties and Defective Work.

18.8.7 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.

18.9 LATE PAYMENT Payments due but unpaid shall bear interest from the date payment is due at the prime rate prevailing at the place of the Project.

## ARTICLE 19

### RIGHT TO AUDIT

19.1 RECORDS The Designer and **Constructor** shall keep such full and detailed accounts as are necessary for proper financial management under this Agreement. Designer and **Constructor** shall maintain a complete set of all books and records prepared or used by them with respect to the Project. The Designer and **Constructor's** records supporting its performance and billings under this Agreement shall be current, complete and accurate and maintained according to Generally Accepted Accounting Principles. The **Owner** shall be afforded access to all records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to this Agreement. The Designer and **Constructor** shall preserve all such records for a period of three years after the final payment or longer where required by law.

19.2 **Owner** may also conduct verifications such as counting employees at the Project Site, witnessing the distribution of payroll, verifying information and amounts through interviews and written confirmations with employees, subcontractors, and material suppliers.

19.3 Designer and **Constructor** shall require consultants, Trade Contractors, Subcontractors, Sub-subcontractors and Material Suppliers to comply with these record-keeping and auditing requirements.

19.4 FINAL ACCOUNTING **Owner's** accountants or other representatives will endeavor to review and

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report in writing on **Constructor's** final accounting within fifteen (15) Days after **Constructor's** delivery of the final accounting to the Management Group. Based upon such Cost of the Work as **Owner's** accountants report to be substantiated by **Constructor's** final accounting, and provided the other conditions of this Section have been met, the Management Group will, within seven (7) Days after receipt of the written report of **Owner's** accountants, either issue a Final Certificate for Payment, or notify the **Constructor** in writing of the reasons for withholding a certificate. If **Owner's** accountants report the Cost of the Work as substantiated by **Constructor's** final accounting to be less than claimed by **Constructor**, **Constructor** shall be entitled to proceed in accordance with the dispute resolution provisions. Pending a final resolution of the disputed amount, **Owner** shall pay **Constructor** the amount certified as indicated in the Final Certificate for Payment.

## ARTICLE 20 CHANGES

20.1 **CHANGES** Changes in the Work that are within the general scope of this Agreement shall be accomplished, without invalidating this Agreement, by Change Order, or Interim Directed Change, subject to the limitations stated in the Contract Documents.

### 20.2 CHANGE ORDER

20.2.1 The **Constructor** may request or the **Owner** may order changes in the Work or the timing or sequencing of performance of the Work that impact the PTCE or the Contract Time. All such changes in the Work that affect Contract Time or PTCE shall be formalized in a Change Order. Any such requests for a change in the PTCE or the Contract Time shall be processed in accordance with this Article.

20.2.2 The **Owner** and the **Constructor** shall negotiate in good faith an appropriate adjustment to the PTCE or the Date of Substantial Completion or Date of Final Completion and shall conclude these negotiations as expeditiously as possible. Acceptance of the Change Order and any adjustment in the PTCE or Date of Substantial Completion or Date of Final Completion shall not be unreasonably withheld.

### 20.3 INTERIM DIRECTED CHANGES

20.3.1 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 PTCE or the Date of Substantial Completion or Date of Final Completion.

20.3.2 The **Owner** and the **Constructor** shall negotiate expeditiously and in good faith for appropriate adjustments, as applicable, to the PTCE or the Date of Substantial Completion or Date of Final Completion arising out of Interim Directed Changes. 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** fifty percent (50%) of **Constructor's** estimated cost to perform the work. In such event, the Parties reserve their rights as to the disputed amount, subject to the requirements of Article 23.

20.3.3 When the **Owner** and the **Constructor** agree upon the adjustments in the PTCE or the Date of Substantial Completion or Date of Final Completion, for a change in the Work directed by an Interim Directed Change, such agreement shall be the subject of an appropriate Change Order. The Change Order shall include all outstanding Interim Directed Changes issued since the last Change Order.

### 20.4 DETERMINATION OF COST

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20.4.1 An increase or decrease in the PTCE or the Date of Substantial Completion or Date of Final Completion resulting from a change in the Work shall be determined by one or more of the following methods:

20.4.1.1 unit prices set forth in this Agreement or as subsequently agreed;

20.4.1.2 a mutually accepted, itemized lump sum;

20.4.1.3 costs calculated on a basis agreed upon by the **Owner** and **Constructor** plus a Fee (either a lump sum or a fee based on a percentage of cost) to which they agree; or

20.4.1.4 if an increase or decrease cannot be agreed to as set forth in Subparagraphs .1 through .3 above, and the **Owner** issues an Interim Directed Change, the cost of the change in the Work shall be determined by the reasonable actual expense and savings of the performance of the Work resulting from the change. If there is a net increase in the PTCE, the **Constructor's** Fee shall be adjusted accordingly. In case of a net decrease in the PTCE, the **Constructor's** Fee 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.

20.4.2 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.

20.4.3 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.

20.4.4 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** fifty percent (50%) of **Constructor's** estimated cost to perform the work. In such event, both Parties reserve their rights as to whether the work was within the scope of the Work. 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 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.

20.5 CLAIMS FOR ADDITIONAL COST OR TIME Except as otherwise provided in the Contract Documents for any claim for an increase in the PTCE or the Date of Substantial Completion or Date of Final Completion, 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** first recognizes the condition giving rise to the claim, whichever is later. Except in an emergency, notice shall be given before proceeding with the Work. Any change in the PTCE or the Date of Substantial Completion or Date of Final Completion resulting from such claim shall be authorized by Change Order.

20.6 MANAGEMENT GROUP ROOT-CAUSE ASSESSMENT The Management Group shall meet at least monthly, beginning with the commencement of construction to assign Change Orders to specific categories as defined by the Management Group, and determine if a Change Order should result in an adjustment to the PTCE. Depending on the causes of a particular change, there may be an apportionment between or among the multiple causes or categories identified.

## ARTICLE 21

### INDEMNITY, INSURANCE, WAIVERS AND BONDS

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## 21.1 INDEMNITY

21.1.1 **OWNER'S INDEMNITY** To the fullest extent permitted by law, the **Owner** shall indemnify and hold the **Constructor** and Designer harmless from all claims for bodily injury and property damage other than to the Work itself and other property insured under Paragraph 21.4, that may arise in connection with the Project, but only to the extent caused by the negligent acts or omissions of the **Owner** or anyone for whose acts or omissions **Owner** may be liable. The **Owner** shall be entitled to reimbursement of any defense costs paid above **Owner's** percentage of liability for the underlying claim to the extent provided for under Subparagraphs 21.1.2 and 21.1.3.

21.1.2 **CONSTRUCTOR'S INDEMNITY** To the fullest extent permitted by law, the **Constructor** shall indemnify and hold the **Owner** and the Designer harmless from all claims for bodily injury and property damage, other than to the Work itself and other property insured under Paragraph 21.4 that may arise from the performance of or the failure to perform the Services, but only to the extent caused by the negligent acts or omissions of the **Constructor** or anyone for whose acts or omissions the **Constructor** may be liable. The **Constructor** shall be entitled to reimbursement of any defense costs paid above **Constructor's** percentage of liability for the underlying claim to the extent provided for under Subparagraphs 21.1.1 and 21.1.3.

21.1.3 **DESIGNER'S INDEMNITY** To the fullest extent permitted by law, the Designer shall indemnify and hold the **Owner**, the **Constructor** harmless from all claims for bodily injury and property damage, except property insured under the **Owner's** property insurance, that may arise from the performance of or the failure to perform Services under this Agreement, but only to the extent of the negligent acts or omissions of the Designer, or anyone for whose acts or omissions any of them may be liable. The Designer shall be entitled to reimbursement of any defense costs paid above Designer's percentage of liability for the underlying claim to the extent provided for under Subparagraphs 21.1.1 and 21.1.2.

## 21.2 INSURANCE

21.2.1 **CONSTRUCTOR'S INSURANCE** Prior to the start of the Work, the **Constructor** shall procure and maintain in force Workers Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, and broad form property damage. If requested, the **Constructor** shall provide the **Owner** with certificates of the insurance coverages required.

21.2.1.1 The **Constructor** shall maintain at least the limits of liability in a company satisfactory to the Management Group as set forth in Exhibit D.

21.2.2 **DESIGNER'S INSURANCE** Before commencing its Services and as a condition of payment, the Designer shall purchase and maintain such insurance as will protect it from claims arising out of the performance of its Services under this Agreement, whether such services are provided by the Designer or by any of its consultants or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

21.2.2.1 The Designer shall maintain at least the limits of liability in a company satisfactory to the Management Group as set forth in Exhibit E.

## 21.3 PROFESSIONAL LIABILITY INSURANCE

21.3.1 **DESIGNER'S PROFESSIONAL LIABILITY INSURANCE** The Designer shall maintain Professional Liability Insurance with a company satisfactory to the Management Group for claims arising from the negligent performance of professional services under this Agreement, which shall

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be either (select only one):

- General Office Coverage
- Project Specific Professional Liability Insurance

written for not less than \$ \_\_\_\_\_ per claim and in the aggregate with a deductible not to exceed \$ \_\_\_\_\_. The Professional Liability Insurance shall contain prior acts coverage sufficient to cover all Services performed by the Designer for this Project. If Project Specific Professional Liability Coverage is used, these requirements shall be continued in effect for \_\_\_\_\_ year(s) following final payment to the Designer. The deductible shall be paid by the Designer.

## 21.3.2 CONSTRUCTOR'S PROFESSIONAL LIABILITY INSURANCE The *Constructor*

shall/  shall not (select one)

obtain professional liability insurance for claims arising from the negligent performance of services under this Agreement, which if required shall be for such limits, deductible and terms as required by the Management Group and set forth in Exhibit D.

## 21.4 PROPERTY INSURANCE

21.4.1 Before the start of Work, the *Owner* shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss. This insurance shall also name the *Constructor*, Subcontractors, Sub-subcontractors, Material Suppliers and Designer as named insureds. 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 at least against the perils of fire, lightning, explosion, windstorm, and hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of *Constructor*) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind, terrorism, testing if applicable, collapse however caused, and damage resulting from defective design, workmanship or material. The *Owner* shall be solely responsible for any deductible amounts or coinsurance penalties. This policy shall provide for a waiver of subrogation in favor of the *Constructor*, Subcontractors, Sub-subcontractors, Material Suppliers and Designer. This insurance shall remain in effect until final payment has been made or until no person or entity other than the *Owner* has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until the *Owner* has secured the consent of the insurance company or companies providing the coverage required in this Subparagraph 21.4.1. Prior to commencement of the Work, the *Owner* shall provide a copy of the property policy or policies obtained in compliance with this Subparagraph 21.4.1.

21.4.2 If the *Owner* does not intend to purchase the property insurance required by this Agreement, including all of the coverages and deductibles described herein, the *Owner* shall give written notice to the *Constructor* before the Work is commenced. The *Constructor* may then provide insurance to protect its interests and the interests of the Subcontractors and Sub-subcontractors, including the coverage of deductibles. The cost of this insurance shall be charged to the *Owner* in a Change Order. The *Owner* shall be responsible for all of *Constructor's* costs reasonably attributed to the *Owner's* failure or neglect in purchasing or maintaining the coverage described above.

21.4.3 *Owner* and *Constructor* waive all rights against each other and their respective employees, agents, contractors, subcontractors and Sub-subcontractors for damages caused by risks covered by the property insurance except such rights as they may have to the proceeds of the insurance and such rights as the *Constructor* may have for the failure of the *Owner* to obtain and

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maintain property insurance in compliance with Subparagraph 21.4.1.

21.4.4 To the extent of the limits of **Constructor's** Commercial General Liability Insurance specified in Exhibit D or \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) whichever is more, the **Constructor** shall indemnify and hold harmless the **Owner** against any and all liability, claims, demands, damages, losses and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of **Owner's** existing adjacent property that may arise from the performance of the Work, to the extent of the negligent acts or omissions of the **Constructor**, Subcontractor or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

## 21.5 OWNER'S INSURANCE

21.5.1 BUSINESS INCOME INSURANCE The **Owner** may procure and maintain insurance against loss of use of the **Owner's** property caused by fire or other casualty loss.

21.5.2 OWNER'S LIABILITY INSURANCE The **Owner** shall obtain and maintain its own liability insurance for protection against claims arising out of the performance of this Agreement, including without limitation, loss of use and claims, losses and expenses arising out of the **Owner's** errors or omissions.

## 21.6 ADDITIONAL LIABILITY COVERAGE

21.6.1 The **Owner** \_\_\_ shall/\_\_\_ shall not (indicate one) require **Constructor** to purchase and maintain liability coverage, primary to **Owner's** coverage under Paragraph 21.5.

21.6.2 If required by Subparagraph 21.6.1, the additional liability coverage required of the **Constructor** shall be: (Designate Required Coverage(s))

\_\_\_ .1 Additional Insured. **Owner** shall be named as an additional insured on **Constructor's** Commercial General Liability Insurance specified in Subparagraph 21.2.1, for operations and completed operations, but only with respect to liability for bodily injury, property damage or personal and advertising injury to the extent caused by the negligent acts or omissions of **Constructor**, or those acting on **Constructor's** behalf, in the performance of **Constructor's** Work for **Owner** at the Worksite.

\_\_\_ .2 OCP. **Constructor** shall provide an Owners' and Contractors' Protective Liability Insurance ("OCP") policy with limits equal to the limits on Commercial General Liability insurance required by Exhibit D, or limits as otherwise required by **Owner**.

Any documented additional cost in the form of a surcharge associated with procuring the additional liability coverage in accordance with this Subparagraph shall be paid by the **Owner** directly or the costs may be reimbursed by **Owner** to **Constructor** by increasing the contract price to correspond to the actual cost required to purchase and maintain the additional liability coverage. Prior to commencement of the Work, **Constructor** shall obtain and furnish to the **Owner** a certificate evidencing that the additional liability coverages have been procured.

21.7 ROYALTIES, PATENTS AND COPYRIGHTS The **Constructor** shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods or systems selected by the **Constructor** and incorporated in the Work. The **Constructor** shall indemnify and hold the **Owner** harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection. The **Owner** agrees to indemnify and hold the **Constructor** harmless from any suits or claims of infringement of any patent rights or copyrights arising out of any patented or copyrighted materials, methods or systems specified by the **Owner** and Designer.

## 21.8 BONDS

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## 21.8.1 ~~Performance and Payment Bonds~~

(Select one only)

✓ are/  are not

required of the **Constructor**. ~~Such bonds shall be issued by a surety admitted in the State in which the Project is located and must be acceptable to the Owner. The penal sum of the Payment Bond shall equal the penal sum of the Performance Bond. Any increase in the Constructor's construction costs as defined in Paragraph 8.3.1.3 that exceeds 10% in the aggregate shall require a rider to the Bonds increasing penal sums accordingly. Up to such 10% amount, the penal sum of the bond shall remain equal to 100% of Constructor's construction costs as defined in Paragraph 8.3.1.3. The Constructor shall endeavor to keep its surety advised of changes potentially impacting the Contract Time and Constructor's construction costs as defined in Paragraph 8.3.1.3, though the Constructor shall require that its surety waives any requirement to be notified of any alteration or extension of time. The Payment Bond for the Project, if any, shall be made available by the Owner for review and copying by the Subcontractor. The Owner's acceptance of bonds shall not be unreasonably withheld.~~

## ARTICLE 22

### SUSPENSION, NOTICE TO CURE AND TERMINATION OF THE AGREEMENT

#### 22.1 SUSPENSION BY OWNER FOR CONVENIENCE

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

22.1.2 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 Subparagraph 22.1.1.

22.2 **NOTICE TO CURE A DEFAULT** If the **Constructor** or Designer persistently refuses or fails to supply enough properly skilled workers, proper materials, or equipment, to maintain the approved schedule in accordance with Articles 7 and 15, or fails to make prompt payment to its workers, Subcontractors or Material Suppliers, subconsultants, disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or is otherwise guilty of a material breach of a provision of this Agreement, the **Constructor** or Designer, as applicable, may be deemed in default. If the **Constructor** or Designer fails within seven (7) business Days after written notification to commence and continue satisfactory correction of such default with diligence and promptness, then the **Owner** without prejudice to any other rights or remedies may:

22.2.1 supply workers and materials, equipment and other facilities as the **Owner** deems necessary for the satisfactory correction of the default, and charge the cost to the **Constructor** or Designer, who shall be liable for the payment of same including reasonable overhead, profit and attorneys' fees;

22.2.2 contract with Others to perform such part of the Work as the **Owner** determines shall provide the most expeditious correction of the default, and charge the cost to the **Constructor** or Designer;

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22.2.3 withhold payment due the **Constructor** or Designer in accordance with Articles 16 and 18; and

22.2.4 in the event of an emergency affecting the safety of persons or property, immediately commence and continue satisfactory correction of such default as provided in Subparagraphs 22.2.1 and 22.2.2 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.

## 22.3 OWNER'S RIGHT TO TERMINATE FOR DEFAULT

22.3.1 TERMINATION BY OWNER FOR DEFAULT ~~If~~, within seven (7) Days of receipt of a notice to cure pursuant to Paragraph 22.2, the **Constructor** or Designer fails to commence and satisfactorily continue correction of the default set forth in the notice to cure, the **Owner** may notify the **Constructor** or Designer that it intends to terminate this Agreement for default absent appropriate corrective action within fourteen additional Days. After the expiration of the additional fourteen (14) Day period, the **Owner** may terminate this Agreement by written notice absent appropriate corrective action. Termination for default is in addition to any other remedies available to **Owner** under Paragraph 22.2. If the **Owner's** cost arising out of the **Constructor's** or Designer's failure to cure, including the cost of completing the Work and reasonable attorneys' fees, exceeds the unpaid compensation, the **Constructor** or Designer shall be liable to the **Owner** for such excess costs. If the **Owner's** costs are less than the unpaid compensation, the **Owner** shall pay the difference to the **Constructor** or Designer. In the event the **Owner** exercises its rights under this Paragraph 22.3, upon the request of the **Constructor** or Designer, the **Owner** shall furnish to the **Constructor** or Designer a detailed accounting of the cost incurred by the **Owner**.

22.3.2 USE OF CONSTRUCTOR'S MATERIALS, SUPPLIES AND EQUIPMENT If the **Owner** or Others perform work under this Paragraph 22.3, 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.

22.3.3 If the **Constructor** or Designer files a petition under the Bankruptcy Code, this Agreement shall terminate if the **Constructor** or Designer or the trustee of same rejects the Agreement or, if there has been a default, the **Constructor** or Designer is unable to give adequate assurance that the **Constructor** or Designer will perform as required by this Agreement or otherwise is unable to comply with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.

## 22.4 TERMINATION BY OWNER FOR CONVENIENCE

22.4.1 Upon written notice to the **Constructor** or Designer, as applicable, the **Owner** may, without cause, terminate this Agreement. The **Constructor** or Designer, as applicable, shall immediately stop the Work, follow the **Owner's** instructions regarding shutdown and termination procedures, and strive to minimize any further costs.

22.4.2 If the **Owner** terminates this Agreement pursuant to this Paragraph 22.4, the **Constructor** or Designer shall be paid for the Work performed to date and any proven loss, cost or expense in connection with the Work, including all demobilization costs and a premium as set forth below: (Insert here the amount agreed to by the Parties.)

22.4.3 If the **Owner** terminates this Agreement pursuant to Paragraphs 22.3 or 22.4, the

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## **Constructor shall:**

22.4.3.1 execute and deliver to the **Owner** all papers and 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 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;

22.4.3.2 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;

22.4.3.3 cancel any subcontracts, orders and commitments as the **Owner** directs; and

22.4.3.4 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**.

## **22.5 CONSTRUCTOR'S/DESIGNER'S RIGHT TO TERMINATE**

22.5.1 Upon seven (7) Days' written notice to the **Owner**, the **Constructor** or Designer may terminate this Agreement if the Work has been stopped for a thirty (30) Day period through no fault of the **Constructor** or Designer for any of the following reasons:

22.5.1.1 under court order or order of other governmental authorities having jurisdiction;

22.5.1.2 as a result of the declaration of a national emergency or other governmental act during which, through no act or fault of the **Constructor** or Designer, materials are not available; or

22.5.1.3 suspension by **Owner** for convenience pursuant to Paragraph 22.1

22.5.2 In addition, upon seven (7) Days' written notice to the **Owner**, the **Constructor** or Designer may terminate the Agreement if the **Owner**:

22.5.2.1 assigns this Agreement over the **Constructor's** or Designer's reasonable objection, or

22.5.2.2 fails to pay the **Constructor** or Designer in accordance with this Agreement, or

22.5.2.3 otherwise materially breaches this Agreement.

22.5.3 Upon termination by the **Constructor** or Designer in accordance with Paragraph 22.5, the **Constructor** or Designer shall be entitled to recover from the **Owner** payment for all Work executed and for any proven loss, cost or expense in connection with the Work, including all demobilization costs plus reasonable overhead and profit on Work not performed.

22.6 OBLIGATIONS ARISING BEFORE TERMINATION Even after termination pursuant to Article 22, the provisions of this Agreement still apply to any Work performed, payments made, events occurring, costs charged or incurred or obligations arising before the termination date.

## **ARTICLE 23**

### **DISPUTE RESOLUTION**

23.1 WORK CONTINUANCE AND PAYMENT Unless otherwise agreed in writing, the **Constructor** or Designer shall continue the Work or Services and maintain the Schedule of the Work during any dispute resolution proceedings. If the **Constructor** or Designer continues to perform, the **Owner** shall continue to make payments in accordance with this Agreement.

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**23.2 DIRECT DISCUSSIONS** If the Parties cannot reach resolution on a matter relating to or arising out of the 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 of the date of first discussion, the dispute shall be submitted to the Management Group at its next meeting or at a special meeting requested by any Party. The Management Group shall review the dispute and take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other Party, (2) request a technical analysis of the dispute from any CPD Team member; (3) proceed in an effort to achieve a negotiated resolution of the dispute. The Management Group may, but shall not be obligated to, consult with or seek information from either Party or from persons with special knowledge or expertise who may assist the Management Group in issuing a technical interpretation or recommendation, or in providing a root cause assessment, the cost of which shall be allocated by the Management Group. If the dispute remains unresolved after submission to the Management Group, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected herein.

**23.3 MITIGATION** If the Parties select one of the dispute mitigation procedures provided in this Paragraph 23.3, disputes remaining unresolved after direct discussions shall be directed to the selected mitigation procedure. The dispute mitigation procedure shall result in a nonbinding finding on the matter, which may be introduced as evidence at a subsequent binding adjudication of the matter, as designated in Paragraph 23.5. The Parties agree that the dispute mitigation procedure shall be:

(Select only one)

- Project Neutral, or
- Dispute Review Board

**23.3.1 MITIGATION PROCEDURES** The Project Neutral/Dispute Review Board shall be mutually selected and appointed by the Parties and shall execute a retainer agreement with the Parties establishing the scope of the Project Neutral's/Dispute Review Board's responsibilities. The costs and expenses of the Project Neutral/Dispute Review Board shall be shared equally by the Parties. The Project Neutral/Dispute Review Board shall be available to either Party, upon request, throughout the course of the Project, and shall make regular visits to the Project so as to maintain an up-to-date understanding of the Project progress and issues and to enable the Project Neutral/Dispute Review Board to address matters in dispute between the Parties promptly and knowledgeably. The Project Neutral/Dispute Review Board shall issue nonbinding findings within five (5) business Days of referral of the matter to the Project Neutral/Dispute Review Board, unless good cause is shown.

**23.3.2** If the matter remains unresolved following the issuance of the nonbinding finding by the mitigation procedure or if the Project Neutral/Dispute Review Board fails to issue nonbinding findings within five (5) business Days of the referral, the Parties shall submit the matter to the binding dispute resolution procedure designated in Paragraph 23.5.

**23.4 MEDIATION** If direct discussions pursuant to Paragraph 23.2 do not result in resolution of the matter and no dispute mitigation procedure is selected under Paragraph 23.3, the Parties shall endeavor to resolve the matter by mediation through the current Construction Industry Mediation Rules of the American Arbitration Association, or the Parties may mutually agree to select another set of mediation rules. The administration of the mediation shall be as mutually agreed by the Parties. The mediation shall be convened within thirty (30) business Days of the matter first being discussed and shall conclude within forty-five (45) business Days of the matter being first discussed. Either Party may terminate the mediation at any time after the first session, but the decision to terminate shall be delivered in person by the terminating Party to the non-terminating Party and to the mediator. The costs of the mediation shall by

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shared equally by the Parties.

**23.5 BINDING DISPUTE RESOLUTION** If the matter is unresolved after submission of the matter to a mitigation procedure or to mediation, the Parties shall submit the matter to the binding dispute resolution procedure designated herein:

(Designate only one)

Arbitration using the current Construction Industry Arbitration Rules of the American Arbitration Association or the Parties may mutually agree to select another set of arbitration rules. The administration of the arbitration shall be as mutually agreed by the Parties.

Litigation in either the state or federal court having jurisdiction of the matter in the location of the Project.

**23.5.1** The costs of any binding dispute resolution procedures shall be borne by the non-prevailing Party.

**23.5.2 VENUE** The venue of any binding dispute resolution procedure shall be the location of the Project, unless the Parties agree on a mutually convenient location.

**23.6 LIEN RIGHTS** Nothing in this Article 23 shall limit any rights or remedies not expressly waived by the **Constructor** that the **Constructor** may have under lien laws.

## ARTICLE 24

### MISCELLANEOUS PROVISIONS

**24.1 ASSIGNMENT** Neither the **Owner** nor Designer nor the **Constructor** shall assign their interest in this Agreement without the written consent of the other except as to the assignment of proceeds. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns and legal representatives. Neither Party to this Agreement 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 **Owner** when **Owner** has fully indemnified **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. In the event of such assignment, the **Constructor** shall execute any consents 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.

**24.2 GOVERNING LAW** This Agreement shall be governed by the law in effect at the location of the Project.

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

**24.4 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.

**24.5 NO PARTNERSHIP OR JOINT VENTURE** This Agreement shall not be construed to constitute the Parties as a partnership or joint venture and no Party shall conduct itself in any way to suggest that a partnership or joint venture exists.

**24.6** The **Owner**, **Constructor** and Designer shall perform their obligations with integrity, ensuring at a

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minimum that

24.6.1 conflicts of interest shall be avoided or disclosed promptly to the other Parties; and

24.6.2 The **Owner, Constructor** and Designer warrant that they have not and shall not pay nor receive any contingent fees or gratuities to or from the other Party, including agents, officers and employees, Subcontractors or others for whom they may be liable, to secure preferential treatment.

24.7 **EXTENT OF AGREEMENT** This Agreement is solely for the benefit of the Parties, represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of the Parties and not for the benefit of any third party except to the extent expressly provided in this Agreement.

24.8 **TITLES AND GROUPINGS** The titles given to the articles of this Agreement are for ease of reference only and shall not be relied upon or cited for any other purpose. The grouping of the articles in this Agreement and of the **Owner's** specifications under the various headings is solely for the purpose of convenient organization and in no event shall the grouping of provisions, the use of paragraphs or the use of headings be construed to limit or alter the meaning of any provisions.

24.9 **JOINT DRAFTING** The Parties expressly agree that this 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, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

24.10 **RIGHTS AND REMEDIES** The Parties' rights, liabilities, responsibilities and remedies with respect to this Agreement, whether in contract, tort, negligence or otherwise, shall be exclusively those expressly set forth in this Agreement.

24.11 **CONFIDENTIALITY** All CPD Team members shall treat as confidential and not disclose to third persons, except as is necessary for the performance of the Work, or use for its own benefit, any of each other's confidential information, know-how, discoveries, production methods and the like that may be disclosed or which is acquired in connection with the Work. The CPD Team members shall each specify those items to be treated as confidential and shall mark them as "Confidential".

24.12 **PRECEDENCE** Among all the Contract Documents, the term or provision that is most specific or includes the latest date shall control. Information identified in one Contract Document and not identified in another shall not be considered to be a conflict or inconsistency.

## 24.13 OTHER PROVISIONS

(Insert here other provisions, if any, that pertain to this Agreement)

## ARTICLE 25

### CONTRACT DOCUMENTS

25.1 The Contract Documents in existence at the time of execution of this Agreement are as follows:

## 25.2 INTERPRETATION OF CONTRACT DOCUMENTS

25.2.1 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 as being necessary to produce

# DRAFT COPY JUL 18, 2012

the indicated results.

25.2.2 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 Management Group for clarification. The Management Group's clarifications are final and binding on all Parties, subject to an equitable adjustment in Time or compensation or dispute resolution in accordance with Article 23.

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

25.2.4 Any terms that have well-known technical or trade meanings, unless otherwise specifically defined in this Agreement, shall be interpreted in accordance with their well-known meanings.

This Agreement is entered into as of the date entered in Article 1.

WITNESS: .....

OWNER: \_\_\_\_\_

BY: .....

PRINT NAME: \_\_\_\_\_

PRINT TITLE: \_\_\_\_\_

WITNESS: .....

CONSTRUCTOR: \_\_\_\_\_

BY: .....

PRINT NAME: \_\_\_\_\_

PRINT TITLE: \_\_\_\_\_

WITNESS: .....

DESIGNER: \_\_\_\_\_

BY: .....

PRINT NAME: \_\_\_\_\_

PRINT TITLE: \_\_\_\_\_

**EXHIBIT F**  
MODIFICATIONS TO CONSENSUSDOCS 300 CONTRACT, STANDARD FORM OF TRI-  
PARTY AGREEMENT OF COLLABORATIVE PROJECT DELIVERY, BETWEEN THE  
EDUCATION ACHIEVEMENT AUTHORITY, A MICHIGAN PUBLIC BODY  
CORPORATE AND PUBLIC AUTHORITY, THE RESENDES DESIGN GROUP, A  
MICHIGAN LIMITED LIABILITY COMPANY, AND JENKINS CONSTRUCTION, A  
MICHIGAN CORPORATION

**ARTICLE 2**  
**DEFINITIONS**

§2.27

This section is deleted in its entirety and replaced with the following:

“A Trade Contractor is a person or entity retained by the Constructor, and pre-approved by Owner, to provide collaboration and services during the Preconstruction Phase of the Project. It is anticipated that a Trade Contractor may continue to serve as a Subcontractor during the Construction Phase provided that the Management Group determines that its performance merits continued participation and its price proposal is competitively bid. If a Trade Contractor who participates in the Preconstruction Phase of the Project is selected as a Subcontractor during the Construction Phase, Constructor shall include a provision in its subcontract that the price submitted for its bid shall not be increased under any circumstances.

**ARTICLE 3**  
**COLLABORATIVE PRINCIPLES**

**§3.1 OBJECTIVES**  
***INSERT EXHIBIT A, DESCRIPTION OF PROJECT***

**§3.3 COLLABORATIVE PROJECT DELIVERY TEAM**

The fourth sentence is modified as follows:

“In forming a Collaborative Project Team, the Parties may select design consultants and Trade Contractors, with the Owner’s pre-approval, to provide preconstruction services early in the preconstruction phase.”

**§3.6 DESIGNER’S RESPONSIBILITIES**

This section is modified by inserting the following sentence at the end of the paragraph:

“Designer shall also consult with, **and act as the agent for**, the Owner to advise Owner as to the reasonableness of the price and substance of work proposed to address a portion of the State of Michigan Fire Safety Code violations contained in Exhibit \_\_\_\_\_, to be performed by Aramark Management Services Limited Partnership (“Aramark”) under a modification to an existing facilities services contract with Owner. Designer understands and accepts that he will act as the Owner’s **agent** under the Owner – Aramark Contract.”

**§3.8 COLLABORATIVE RISK ALLOCATION**

**§3.8.2. *Check this section and***  
***Insert Liability Limits***

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**ARTICLE 4  
MANAGEMENT BY THE MANAGEMENT GROUP**

**§4.1 MANAGEMENT GROUP**

This first sentence of this section is modified as follows:

“The delivery of the Project shall be managed by the Management Group, which shall serve as the decision-making body for the delivery of the Project, subject to Owner’s final rights of approval, and shall employ collaborative methods for achieving the highest quality and most efficient and economical delivery of the Project.”

**§§4.2, 4.3, and 4.4**

***Insert Representatives.***

**§4.6 DECISION-MAKING**

The third sentence of this section is modified as follows:

“To the extent consensus cannot be reached among the three original Management Group members, the Owner shall make a determination in the best interest of the Project as a whole.”

**§4.10 PROJECT PERSONNEL**

***Insert Exhibit B***

**ARTICLE 6  
DEVELOPMENT OF DESIGN AND COLLABORATIVE PRECONSTRUCTION  
SERVICES**

**§6.2 SCOPE**

***Insert Exhibit C.*** Scope of Services of Designer and Designer’s Consultants

Include enviro testing and project coordination with advice on the portion of the work to be completed by Aramark.

**§6.5 PULL BASED DESIGN**

This section is deleted in its entirety.

**§6.7 DESIGN-BUILD WORK**

The second sentence of this section is modified as follows:

“The Constructor shall utilize the designs developed by Designer for the Design-Build Work.”

**ARTICLE 7  
PROJECT PLANNING AND SCHEDULE**

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§7.2 PROJECT PLANNING SYSTEM

§7.2.1 PULL PLANNING

This section is deleted in its entirety.

§7.3 SCHEDULE

§7.3.4

INSERT the following

“In consideration of the emergency nature of the repairs and/or construction of this Project, the Owner, Constructor, and Designer recognize and agree that time is of the essence in this Contract. If any Party becomes reasonably aware that any portion of the work cannot be completed on schedule, he/she shall notify Owner immediately in writing.”

**ARTICLE 8  
CONSTRUCTION BUDGET AND COST MODELING AND PROJECT TARGET  
CONTROL ESTIMATE**

§8.2.2 SCHEMATIC DESIGN COST MODEL

This section is deleted in its entirety.

§8.2.3 DESIGN DEVELOPMENT COST MODEL

This section is deleted in its entirety.

§8.2.4 CONSTRUCTION DOCUMENT COST MODEL

This section is deleted in its entirety.

§8.2.5 ESTIMATED COST OF WORK

This section is deleted in its entirety.

**ARTICLE 9  
DESIGNER’S COMPENATION**

INSERT AS APPROPRIATE AFTER REVIEW AND SCOPE IS DETERMINED BASED ON ARAMARK, ETC.

**ARTICLE 10  
CONSTRUCTOR’S COMPENSATION**

INSERT AS APPROPRIATE AFTER REVIEW AND SCOPE IS DETERMINED BASED ON ARAMARK, ETC.

**ARTICLE 11**

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## INCENTIVES AND RISK SHARING

### §11.5 LOSSES

This section is modified as follows:

11.5.2 Shall be shared by the Parties on the following basis: "Each Party shall be at risk to the full extent that such increased costs are attributable to their actions, omissions, failure in professional judgment, negligence, and/or intentional acts."

### §11.6 LOSS LIMITS

Check the following:

"Designer's and Constructor's Fees **ARE** at risk and the total amount of each Fee **SHALL** represent the Designer's and Constructor's limit of liability for losses apportioned pursuant to Paragraph 11.5"

## ARTICLE 12 TRADE CONTRACTORS, SUBCONTRACTORS, SUPPLIERS AND DESIGN CONSULTANTS

### §12.1 PARTICIPATION IN COLLABORATION

The first sentence of this section is modified as follows:

"The Constructor may contract with key Trade Contractors, subject to the limitations contained in §2.27, and Suppliers during early Project design to provide preconstruction services and facilitate an integrated, collaborative design process, subject to the approval of the Owner."

### §12.2 SOLICITATION AND SELECTION

This section is modified by inserting the following sentences at the end of the paragraph:

"In consideration of the emergency nature of this Project and the need to ensure as competitive a process as feasible under the circumstance, the Constructor shall only enter into such subcontracts for Construction work to be performed after Constructor manages the invitation to bid process and the successful subcontractors are selected by the Owner. The Owner shall take into consideration the approval and recommendation of the Constructor in selecting successful subcontractors."

### §12.3 SELF-PERFORMED WORK

This section is deleted in its entirety and replaced with the following:

"Constructor shall not self-perform any of the Project work without explicit written pre-approval from the Owner."

### §12.6 DESIGN-BUILD WORK

This section is deleted in its entirety and replaced with the following:

"To the extent any of the Work is to be performed by the Constructor or a subcontractor on a Design-Build or Design-Assist basis, the Designer shall specify all applicable performance and design criteria. The Constructor and subcontractors shall utilize the design plans and services of the Designer related to the Design-Build Work. Work to be performed on a design-build or design-assist basis shall be fully designed during preconstruction and shall be fully integrated

into the Construction Documents that are submitted for permit or other governmental approvals. Designer shall be responsible for coordinating the design of the Design-Build Work with the design being provided pursuant to the terms of this Agreement.”

## ARTICLE 13 CONSTRUCTION OPERATIONS

### §13.2 QUALITY PLAN

This section is modified as follows:

“The Constructor, ~~Trade Contractors~~ **Designer**, and Subcontractors shall **work cooperatively with each other** ~~submit to the Management Group for its approval~~ to develop and maintain a construction operations quality plan that addresses the following:...”

### §13.5 TESTS AND INSPECTIONS

#### §13.5.1

This section is deleted in its entirety and replaced with the following:

“The ~~Constructor and~~ Designer shall coordinate and 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 and~~ Designer 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 and inspection. The Owner shall bear all expenses associated with tests, inspections and approvals required by the Contract Documents, to the extent they are not provided for in the costs of ~~Constructor’s and~~ Designer’s costs contained in Exhibit \_\_\_\_\_, and except as provided in Subparagraph 13.6.3, and which, unless otherwise agreed to, shall be conducted by an independent testing laboratory or entity retained by Owner. Unless otherwise required by the Contract Documents, required certificates of testing, approval, or inspection shall be secured by the ~~Constructor or~~ **Designer as they so agree** and promptly delivered to the Owner.”

#### §13.5.2

The first sentence of this section is modified as follows:

“If the Owner or appropriate authorities determine that tests, inspections or approvals in addition to those required in the Contract Documents will be necessary, the Constructor **or Designer** shall arrange for the procedures and give timely notice to the Owner and Others who may observe the procedures.”

### §13.7 CORRECTION OF WORK WITHIN ONE YEAR

#### §13.7.4

This section is deleted in its entirety and replaced with the following:

“The Constructor’s obligations and liability, if any, with respect to any Defective Work discovered after the one-year correction period shall be determined by the Law. If, after the one-year correction period but before the applicable limitation period has expired, the Owner discovers any Work which the Owner considers Defective Work, the Owner shall, unless the

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Defective Work requires emergency correction, promptly notify the Constructor and allow the Constructor an opportunity to correct the Work if the Constructor elects to do so. 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 and 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, if the Owner intends to seek recovery of those costs from the Constructor, the Owner shall promptly provide the Constructor with an accounting of the correction costs it incurs.”

§13.10

*Insert Constructor’s Worksite Safety Representative, if applicable.*

§13.12 HAZARDOUS MATERIALS

INSERT §13.12.9

“Notwithstanding any other provision of this Section, Constructor and Designer each recognize and accept that some hazardous materials may be present at the Project sites by nature of the inspection report violations that are the subject of this Agreement. Both Constructor and Designer shall work in conjunction with **each other and Aramark Management Services, LP** to retain the necessary subcontractors and/or consultants to test for lead contamination in those areas identified in the State of Michigan Bureau of Fire Services, Fire Marshall Division inspection reports. Constructor and Designer shall each exercise his/her professional judgment to take all actions necessary to alleviate and/or eliminate such hazardous materials from the construction site. Constructor and Designer shall also work in conjunction to test for asbestos or other contamination, where in his/her professional judgment it presents a hazard to the health, safety, and welfare of the students and staff of the Owner, and take the actions necessary to alleviate and/or eliminate such hazardous materials from the construction site.”

**INSERT 13.12.10 HAZARDOUS MATERIALS INDEMNITY**

“The Owner agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the Designer, its officers, partners, employees and subconsultants (collectively, Consultant) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, including lead contamination, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability, regulatory or any other cause of action, **except** for the negligence or willful misconduct of the Designer.”

§13.13 SUBMITTALS

§13.13.6

Check Appropriate Box as agreed to.

**ARTICLE 15**

## **TIME**

### **§15.6 DELAYS IN THE WORK**

#### **§15.6.2**

This section is modified as follows:

“in addition, if the Constructor incurs additional costs as a result of a delay that is caused by acts or omissions of the Owner, the Designer or Others, 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, encountering Hazardous Materials not contemplated by the Parties, or concealed or unknown conditions, delay authorized by the Owner pending dispute resolution and suspension by the Owner, the Constructor shall be entitled to an equitable adjustment in the PTCE.”

## **ARTICLE 16 DESIGNER’S PAYMENT**

INSERT AS APPROPRIATE AFTER REVIEW AND SCOPE IS DETERMINED BASED ON ARAMARK, ETC.

## **ARTICLE 17 COST OF WORK**

### **§17.2 COST ITEMS**

MODIFY AS APPROPRIATE AFTER REVIEW AND SCOPE IS DETERMINED BASED ON ARAMARK, ETC.

#### **§17.2.2**

This section is deleted in its entirety.

#### **§17.2.14**

This section is deleted in its entirety.

## **ARTICLE 18 CONSTRUCTOR’S PAYMENT**

INSERT AS APPROPRIATE AFTER REVIEW AND SCOPE IS DETERMINED BASED ON ARAMARK, ETC.

### **§18.2 PROGRESS PAYMENTS**

#### **§18.2.1 APPLICATIONS**

The third sentence of this section is modified as follows:

“The Owner shall pay the amount otherwise due on any payment application, no later than thirty (30) Days after the Constructor has submitted a complete and accurate payment application.”

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§18.2.4 RETAINAGE  
INSERT 10%

## ARTICLE 21 INDEMNITY, INSURANCE, WAIVERS AND BONDS

### §21.3 PROFESSIONAL LIABILITY INSURANCE

#### §21.3.1 DESIGNER'S LIABILITY INSURANCE

**Check** GENERAL OFFICE COVERAGE, written for not less than \$1,000,000 per claim and in the aggregate, with a deductible not to exceed \_\_\_\_\_.

#### §21.3.2 CONSTRUCTOR'S LIABILITY INSURANCE

**Check** The Constructor SHALL...

### §21.8 BONDS

Check Performance and Payment Bonds ARE required

The fifth sentence of this section is further modified as follows:

“Up to such 10% amount, the penal sum of the bond shall remain equal to **25%** ~~100%~~ of Constructor's construction costs as defined in Paragraph 8.3.1.3.”

## ARTICLE 22 SUSPENSION, NOTICE TO CURE, AND TERMINATION OF THE AGREEMENT

### §22.3 OWNER'S RIGHT TO TERMINATE FOR DEFAULT

#### §22.3.1

The first and second sentences of this section are modified as follows:

“If, within seven (7) Days of receipt of a notice to cure pursuant to Paragraph 22.2, the Constructor or Designer fails to commence and satisfactorily continue correction of the default set forth in the notice to cure, the Owner may notify the Constructor or Designer that it intends to terminate this Agreement for default absent corrective action within five additional Days. After the expiration of the additional five (5) Day period, the Owner may terminate this Agreement by written notice absent appropriate corrective action.”

## ARTICLE 23 DISPUTE RESOLUTION

### §23.5 BINDING DISPUTE RESOLUTION

**Check** Arbitration.

## ARTICLE 24 MISCELLANEOUS PROVISIONS

## §24.13 OTHER PROVISIONS

### INSERT §24.13.1

“Constructor shall ensure that any subcontractors selected to participate in any capacity in the Building Codes Compliance Upgrades projects which are the subject of this contract shall maintain and provide proof of certified payrolls with each Application for Payment. Constructor shall not release or make any payments to any subcontractor without obtaining and reviewing such documents.”

### INSERT §24.13.2

“Constructor shall ensure that the subcontractors’ bidding process is a competitive process wherein the benefits of such competition accrue to the Owner in the form of the lowest cost that satisfy the requirements of this contract. Constructor shall receive bids, form a recommendation for the Owner, and shall enter into such contracts as directed by Owner after the Owner’s evaluation and selection of successful bidders based, in part, upon the Constructor’s recommendations.”

### INSERT §24.13.3

“Constructor and its subcontractors shall not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, origin, national origin, age, sex, height, weight, or marital status.”

## ARTICLE 25 CONTRACT DOCUMENTS

### §25.1

1. This Consensusdocs 300 Contract, Standard Form of Tri-Party Agreement of Collaborative Project Delivery, Between the Education Achievement Authority, a Michigan public body corporate, Resendes Design Group, a Michigan limited liability company, and Jenkins Construction, a Michigan corporation.
2. State of Michigan Department of Licensing and Regulatory Affairs, Bureau of Fire Services, Fire Marshall Division inspection reports for the fifteen schools under the control, possession, and constructive ownership of the Owner, to the extent the items listed on said inspection reports: 1) present an emergency to the health, safety, and welfare of the students and staff of the Owner; or 2) constitute repair work normally performed by school district, intermediate school board, or public school academy employees.
3. Spreadsheet itemization of all violations listed in the above referenced reports and the resulting assignment of responsibilities to the Parties to this Agreement and Aramark, Inc. This spreadsheet itemization shall also include the expected Project Target Cost Estimate described herein.
4. Exhibit A, Description of Project

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5. Exhibit B, Project Personnel
6. Exhibit C, Scope of Services of Designer and Designer's Consultants
7. Exhibit D, Insurance Requirements of Constructor
8. Exhibit E, Insurance Requirements of Designer
9. Exhibit F, Modifications to Consensusdocs 300 Contract, Standard Form of Tri-Party Agreement of Collaborative Project Delivery, Between the Education Achievement Authority, a Michigan public body corporate and public authority, Resendes Design Group, a Michigan limited liability company, and Jenkins Construction, a Michigan corporation.

**EXHIBIT A  
DESCRIPTION OF PROJECT**

**The following documents, in conjunction with this Agreement, constitute the Description of the Project and the Owner's Program.**

1. State of Michigan Department of Licensing and Regulatory Affairs, Bureau of Fire Services, Fire Marshall Division inspection reports for the fifteen schools under the control, possession, and constructive ownership of the Owner, to the extent the items listed on said inspection reports: 1) present an emergency to the health, safety, and welfare of the students and staff of the Owner; or 2) constitute repair work normally performed by school district, intermediate school board, or public school academy employees.
2. Spreadsheet itemization of all violations listed in the above referenced reports and the resulting assignment of responsibilities to the Parties to this Agreement and Aramark, Inc. This spreadsheet itemization shall also include the expected Project Target Cost Estimate described herein.
3. Amendment 1: Project Target Cost Estimate, upon final review and assignment of responsibilities as provided in Item 2.

**EXHIBIT B  
PROJECT PERSONNEL**

[Insert Provisions Provided by Resendes and Jenkins]

**EXHIBIT C**  
**SCOPE OF SERVICES OF DESIGNER AND DESIGNER'S CONSULTANTS**

**Designer Scope of Services**

[Insert Provisions Provided by Resendes]

**In addition to any other provisions contained herein, the Designer shall consult with, and act as an agent of, Owner to advise Owner as to the reasonableness of the price and substance of work proposed to address a portion of the State of Michigan Fire Safety Code violations contained in Article 25 documents and Exhibit A, to be performed by Aramark under an existing facilities services contract with Owner.**

**Designer's Consultants**

1. Designer Consultants shall include such consultants as to test for the existence of lead, asbestos, and other such hazardous materials as may be presented in the Project sites or specifically listed in the Violation Reports that are incorporated into this Agreement.
2. [List any other]

**HAZARDOUS MATERIALS INDEMNITY**

“The Owner agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the Designer, its officers, partners, employees and subconsultants (collectively, Consultant) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, including lead contamination, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability, regulatory or any other cause of action, **except** for the negligence or willful misconduct of the Designer.”

**EXHIBIT D**  
**INSURANCE REQUIREMENTS OF CONSTRUCTOR**

1. Worker's Compensation in accordance with the laws of Michigan.
2. Employer's Liability Insurance
  - a. \$500,000 Bodily Injury by Accident Each Accident
  - b. \$1,000,000 Bodily Injury by Disease Policy Limit
  - c. \$1,000,000 Bodily Injury by Disease Each Employee
3. Business Automobile Liability Insurance
  - a. \$1,000,000 Each Accident
4. Commercial General Liability Insurance
  - a. \$1,000,000 Each Occurrence
  - b. \$2,000,000 General Aggregate
  - c. \$2,000,000 Products/Completed Operations Aggregate
  - d. \$1,000,000 Personal and Advertising Injury Limit
5. Pollution Liability Insurance
  - a. \$500,000 Each Claim
  - b. \$500,000 Aggregate

**EXHIBIT E**  
**INSURANCE REQUIREMENTS OF DESIGNER**

1. Professional Liability (Errors and Omissions Liability)
  - a. \$1,000,000 Each Claim
  - b. \$1,000,000 Aggregate

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME <b>Murphy Elementary &amp; Middle School</b>	INSPECTION DATE <b>5-21-12</b>	COUNTY <b>Wayne</b>	PROJECT <b>108135</b>
ADDRESS <b>23901 Fenkel</b>	FACILITY TYPE <b>School</b>	RULES/CODES <b>'99 School Rule</b>	JOB/LIC/FAC. NO.
CITY, STATE ZIP CODE <b>Detroit MI 48223</b>	FACILITY REPRESENTATIVE <b>Janet Glenn, Principal</b>		INSPECTION TYPE <b>Safety</b>
FACILITY PHONE <b>(313) 494-7585</b>	PHONE 2 <b>janet.glenn@detroitk12.org</b>	FACILITY FAX <b>(313) 494-7550</b>	

**Re: Fire safety inspection.**

A fire safety inspection was completed this date. The deficiencies noted shall be corrected.

1. Observed the storage of 2 gasoline powered snowblowers in the receiving room. Gasoline was observed in the snowblowers. The substitute Building Engineer was ordered to remove them from the building or empty the gasoline from the tanks and the fuel system. They were removed immediately. 2-2
2. Observed the kitchen storage room door is held in the open position with a floor wedge. 11-3.2
3. Observed no fire suppression above the 4 burner, commercial type, kitchen stove. 11-3.2.2
4. Observed the filters above the cooking stove are extremely dirty. 2-2, NFPA 96
5. Observed the only fire extinguisher in the kitchen is a 40 BC dry chemical type. NFPA 10
6. Observed all fire extinguishers in the building are passed due for inspection and testing. The last date of service is July, 2010. NFPA 10
7. Observed the lunch room door to the receiving room is held open with the self-closing device. The door is to remain closed at all times. 11-3.2, 2-2
8. Observed the music/vocal corridor door is missing the door latching mechanism and is continually ajar. 11-3.6
9. Observed the music listening room is used for the storage of combustibles. 11-3.2
10. Observed that awning and hopper type windows are in use in the building. None of these windows are in compliance with the code. 11-2.11.1
11. Observed in the band/vocal room the 2<sup>nd</sup> corridor access door is blocked by shelving. 11-2.11.1
12. Observed the boiler room corridor door does not close to positive latch. 11-3.2
13. Observed exposed wires in a junction box in the ceiling of the Parent Resource Room. 2-2
14. Observed of combustible materials in the unapproved storage room across from the Main Office. The room has a glass window on the corridor. 11-3.2
15. Observed the cross corridor doors near the Principal's office are held open with a floor wedge. The self-closing devices are inoperative. NFPA 80
16. Observed the exit doors near room 107 are difficult to open. 5-1.9, 2-4
17. Observed the custodial closet near the Library does not close to latch. 11-3.2

FIRE SAFETY CERTIFICATION	PROJECT STATUS	REVIEWED BY <b>Mick Dingman</b>
INSPECTING OFFICIAL <b>Patrick Tutak, Fire Marshal Inspector</b>	ADDRESS	<b>525 W. Allegan, 4<sup>th</sup> Floor</b>
SIGNATURE OF OFFICIAL <i>Patrick Tutak</i>	TELEPHONE	<b>Lansing, MI 48933</b>
	FAX	<b>248-888-8762</b>
	E-MAIL	<b>517-335-4061</b> <b>tutakp@michigan.gov</b>
The Department of Licensing and Regulatory Affairs will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, marital status, disability, or political beliefs. If you need assistance with reading, writing, hearing, etc., under the Americans with Disabilities Act, you may make your needs known to this agency.		Authority: <b>PA207 of 1941, as amended</b> Completion: <b>Required</b> Penalty: <b>Misdemeanor</b>

BFS-40 (Rev. 1/07)

Distribution: Architect, BFS Central/Field Office, BHS/DHS/DOC/DOE, Facility, Local Fire Department

18. Observed 2 designated exit doors that lead to gated and padlocked court yards between building sections A/B and B/C. 11-2, 5-1.9
19. Observed that the designated exit door to a gated courtyard near the computer could not be opened. 11-2, 5-1.9
20. Observed that the east leaf of the exterior exit door to the playground is difficult to open. 11-2, 5-1.9
21. Observed the corridor door to the Janitor closet in the Vocational corridor is binding and does not close to latch. 11-3.2
22. Observed that the sprinkler inspector's test valve handle has been removed and the identification sign has been removed. NFPA 25
23. Observed combustible storage throughout the student occupied Computer Lab in the Vocational corridor. 11-3.2
24. Observed the exterior exit door in the Vocational corridor, Computer Lab is blocked by equipment stored in front of the door. 11-2.1, 5-1.9
25. Observed no illuminated exit located for the Computer Lab exterior door. 11-2.10, 5-10
26. Observed no illuminated directional exit sign at the east end of the Gym/Locker room corridor. 11-2.10, 5-10
27. Observed a broken exit sign above the southwest Gym corridor exit door. 11-2.10
28. Observed a fire extinguisher missing from the cabinet located in the west exit corridor of the lunch room. 7-7.4, NFPA 10
29. Observed one of the 2 west exit doors from the lunch room does not open easily. 11-2
30. Observed the school could not provide any annual fire alarm or sprinkler inspection records. 7-7.5, NFPA 25, 7-6.1.7, 7-6.1.4
31. Observed the school has participated in only 2 fire drills this school year. The drills were conducted on 10-27-11 and 11-2-11. 11-7.1

Cc:

Janet Glenn, Principal

Tx: (313) 494-7585

janet.glenn@detroitk12.org

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME <b>Stewart School</b>	INSPECTION DATE <b>5-15-12</b>	COUNTY <b>Wayne</b>	PROJECT <b>108131</b>
ADDRESS <b>13120 Wildemere St</b>	FACILITY TYPE <b>School</b>	RULES/CODES <b>'99 School Rule</b>	JOB/LIC/FAC. NO.
CITY, STATE ZIP CODE <b>Detroit MI 48238</b>	FACILITY REPRESENTATIVE <b>Lachelle Williams, Principal</b>		INSPECTION TYPE <b>Safety</b>
FACILITY PHONE <b>(313) 852-1450</b>	PHONE 2 <b>lachelle.williams@detroitk12.org</b>	FACILITY FAX <b>(313) 852-1455</b>	

**Re: School Safety Inspection.**

A school fire safety inspection was completed this date. The building was constructed in 1925, is type I (222) construction and is partially sprinkler protected. Occupancy is Pre-K through 8<sup>th</sup> grade and a H. Ford Health Clinic. The building was inspected using the existing occupancy section of the school rules.

1. Observed all fire extinguishers in the building are passed due for service. The last inspection date is 2009. Some of the extinguishers have been discharged. NFPA 10
2. Observed no illuminated exit signs throughout the building. The signs that are in use are attached to the wall and cannot be seen from down the corridor. 11-2.10, 5-10
3. Observed no emergency lighting in the building. 11-2.9, 5-9
4. Observed the use of a dead bolt lock on the door to classroom 210. 11-2.2.2 The room has changed occupancies and the added lock is no longer needed.
5. Observed penetrations of the ceiling by conduit in room 218 are not properly fire stopped. 11-3.2
6. Observed former classroom 218 is being used for combustible storage but it is not constructed to provide a 1 hour fire separation. 11-3.2
7. Observed the door handle to the toilet room, near classroom 207, is missing.
8. Observed the glazing is missing from the corridor door to the IT room near classroom 207. 11-3.6.1(5)
9. Observed the use of key operated dead bolt locks on the corridor doors to room 215. 11-2.2.2
10. Observed the storage of custodial supplies beneath every stairway in the building. 2-2, 5-2.2.5.3
11. Observed a drop-leg door hold open device on the fire rated corridor door to the Henry Ford Health clinic. 11-1.2.1(a)
12. Observed that the emergency escape window in room 121 does not open. 11-2.11
13. Observed painted fire sprinklers in the Auditorium above the platform. NFPA 25, 13
14. Observed the school could produce the flame proofing documentation for the curtains and drapes in the Auditorium. 11-3.3
15. Observed a painted sprinkler in the janitor's closet near the Main Office. 25, 13
16. Observed the handle for the emergency escape window in classroom 112 is broken and

FIRE SAFETY CERTIFICATION <b>Disapproved</b>	PROJECT STATUS <b>Open</b>	REVIEWED BY <b>Mick Dingman</b>
INSPECTING OFFICIAL <b>Patrick Tutak, Fire Marshal Inspector</b>	ADDRESS <b>525 W. Allegan, 4<sup>th</sup> Floor</b>	Lansing, MI 48933
SIGNATURE OF OFFICIAL <i>Patrick Tutak</i>	TELEPHONE <b>248-888-8762</b>	517-335-4061
	FAX <b>tutakp@michigan.gov</b>	
	E-MAIL	
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**the window is screwed shut. 11-2.11**

**Cc:**

Lachelle Williams, Principal  
Tx: (313) 852-1450  
lachelle.williams@detroitk12.org

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME Mumford High School	INSPECTION DATE 5-23-12	COUNTY Wayne	PROJECT 108137
ADDRESS 17525 Wyoming	FACILITY TYPE School	RULES/CODES '99 School Rule	JOB/LIC/FAC. NO.
CITY, STATE ZIP CODE Detroit MI 48221	FACILITY REPRESENTATIVE Anthony Houston, Principal		INSPECTION TYPE Safety
FACILITY PHONE (313) 416-7064	PHONE 2 anthony.houston02@detroitk12.org	FACILITY FAX (313) 651-0836	

**Re: Fire safety inspection.**

A fire safety inspection was to be completed this date.

The existing high school will be student occupied until June 14, 2012. At that time the students are excused for summer vacation. On June 17, 2012 the abatement and demolition of the existing building will begin.

The students will begin the new school year in September in a new building, which is nearing the end of construction. The new building is being constructed using the State building and the Life Safety Code. Inspections are being performed by the City of Detroit using the State building code, as explained by Mr. Dennis Kelly, Project Manager for Turner Construction Co.

All of this information was verified by the school building Engineer.

**This project is closed.**

Cc:

Anthony Houston, Principal

Tx: (313) 416-7064

anthony.houston02@detroitk12.org

FIRE SAFETY CERTIFICATION Disapproved.	PROJECT STATUS Closed	REVIEWED BY Mick Dingman
INSPECTING OFFICIAL Patrick Tutak, Fire Marshal Inspector	ADDRESS 525 W. Allegan, 4 <sup>th</sup> Floor Lansing, MI 48933	TELEPHONE 248-888-8762
SIGNATURE OF OFFICIAL <i>Patrick Tutak</i>	TELEPHONE 517-335-4061	FAX tutakp@michigan.gov
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BFS-40 (Rev. 1/07)

Distribution: Architect, BFS Central/Field Office, BHS/DHS/DOC/DOE, Facility, Local Fire Department

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME Southeastern High School	INSPECTION DATE 5/9-10/12	COUNTY Wayne	PROJECT 108127
ADDRESS 3030 Fairview Street	FACILITY TYPE School	RULES/CODES '99 School Rule	JOB/LIC/FAC. NO.
CITY, STATE ZIP CODE Detroit MI 48214	FACILITY REPRESENTATIVE Gerald E. Craft, Principal		INSPECTION TYPE Safety
FACILITY PHONE (313) 866-4500	PHONE 2 gerald.craft@detroitk12.org	FACILITY FAX (313) 449-4671	

**Re: School fire safety inspection.**

A fire safety inspection was completed this date. The deficiencies noted shall be corrected in the specified time period.

The building is Type II unprotected steel and poured concrete, 3 stories with a basement. All floors are used for student occupancy. The building was fully renovated in 2003, per the Engineer, and is fully sprinkler protected. The inspection was performed using the 1999 School Rules for a new educational occupancy.

1. **Observed all stairways are not separated from other parts of the building and constructed to provide a 2 hour fire resistance rating.** 5-2.2, 6-2.4, 5-1.3.2.1,  
It was observed at all stairways, except the stairway next to Main Office, that the fire separation walls above the 2 hour fire rated cross corridor doors do not extend to the deck above or that penetrations are not fire stopped.
2. **Observed the inspection and test records for the following are not available:**
  - A. **Fire alarm.** NFPA 72 The fire alarm panel, in the Main Office, was indicating 6 trouble signals.
  - B. **Fire sprinkler system.** NFPA 25
  - C. **Kitchen hood suppression.** NFPA 96 The hood system was last inspected in 2009, by the tag.
3. **Observed fire drills and drill records are not being maintained for review as required.** 10-7.1
4. **Observed the fire department connection needs to be inspected for foreign debris and the protective caps replaced.** 25 There appears to be debris behind the clapper.
5. **Observed no approved sprinkler wrench.** 13, 25
6. **Observed all fire extinguishers are in need of inspection and service.** The inspection dates on all extinguishers indicate they are passed due for service. NFPA 10

**Basement Level**

7. **Observed the Maintenance room corridor door does not close and positive latch.** 10-3.2

FIRE SAFETY CERTIFICATION	PROJECT STATUS	REVIEWED BY Mick Dingman
INSPECTING OFFICIAL Patrick Tutak, Fire Marshal Inspector	ADDRESS	525 W. Allegan, 4 <sup>th</sup> Floor Lansing, MI 48933
SIGNATURE OF OFFICIAL <i>Patrick Tutak</i>	TELEPHONE	248-888-8762
	FAX	517-335-4061
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Distribution: Architect, BFS Central/Field Office, BHS/DHS/DOC/DOE, Facility, Local Fire Department

8. Observed penetrations of the corridor wall of the weight room are not sealed and a corridor wall fire damper is in the wall and open. This should be sealed to provide the required smoke resistance of the wall. 10-3.6(2) The room has no ceiling tile in place by design.
9. Observed ceiling tiles are missing throughout the basement corridors. 10-3.6(2)
10. Observed the handle and latch mechanism for the door to storage room 028 is missing. 10-3.2
11. Observed ceiling tiles hanging below the sprinklers throughout the basement. 25
12. Observed the key to room 029 is missing. Inspection could not be performed.
13. Observed exposed wiring in the corridor wall across from the Weight room. 2-2
14. Observed latch mechanism to room 031 does not close and latch. 10-3.2
15. Observed the fire rated, panic type hardware, to the stairway door near the Weight room is missing. 10-2.2
16. Observed inoperative exit lights in the swimming pool area. 10-2.11, 5-10
17. Observed emergency lighting point by point calculations are not available for review. 10-2.9, 5-9
18. Observed exposed wiring in the ceiling of the boys, pool locker room. 2-2
19. Observed an exit from the lunch room is partially blocked by a table and metal detector. 5-1.9
20. Observed both pairs of cross corridor smoke barrier/fire separation doors and closing devices near the ROTC room are broken. 10-3.7 The doors do not self-close or positive latch.
21. Observed the wall over the doors noted above is not fire stopped at the deck, and all penetrations of the wall are not fire stopped. 10-3.7
22. Observed 5 broken fire sprinkler branch line hangers in the ROTC shooting range. 25 The branch line is currently held up with a piece of clothes line.
23. Observed broken/inoperative exit signs near room 005. 10-2.10
24. Observed no directional exit sign has been installed near room 013A. 10-2.10
25. Observed the door to storage room 011A has no self closing device. 10-3.2, 6-4.1.2
26. Observed the stairway door near room 014 does not close to positive latch. 5-1.3.2, 6-2,80
27. Observed the penetrations of light sensors and cameras installed in the stairways. 5-1.3.2(e)

**1<sup>st</sup> Floor**

28. Observed the stairway door near room 102 does not close or latch. 5-1.3.2, 6-2, 80
29. Observed the door to room 112 does not close to positive latch. 10-3.6
30. Observed the cross corridor smoke/fire doors near the main office do not close to latch. 10-3.7
31. Observed the Engineer does not have keys for room 104, 141. Unable to access. 2-2
32. Observed the corridor width serving 134A and 145 is 5' 5" in width. 10-2.3.2
33. Observed inoperative or broken exit lights throughout the 1<sup>st</sup> floor. 10-2.10, 5-10
34. Observed the fire extinguisher in room 127, Culinary Arts, is missing. NFPA 10
35. Observed the cross corridor stairway doors throughout the building do not close to positive latch or are damaged. 5-1.3.2, 6-2
36. Observed a missing handrail from the stairway near room 130. 10-2.2.3, 5-2.2.4
37. Observed no fire sprinkler in the HVAC coil room 124. NFPA 13
38. Observed the door to storage room 123 has no self closing device. 10-3.2, 6-4.1.2
39. Observed a broken fire alarm strobe light in the boy's toilet near room 116. 10-3.4.3, 7-6.3
40. Observed the handrail is missing from the west side of the exterior ramp exiting the building and the east side does not have a handrail installed. 10-2.2, 5-2.5

**2<sup>nd</sup> Floor**

41. Observed the Engineer does not have keys for entry to rooms 246, 248. Unable to access

**2-2**

- 42. Observed fire sprinklers are not installed below the ducts in the mechanical room in the Library. 7-7, 13
- 43. Observed draperies hanging from the rafters in the Library are blocking the water spray from the fire sprinklers. 13
- 44. Observed no data is available for the interior finish of the draperies hanging in the Library. 10-3.3
- 45. Observed room 249 is missing a door knob from the of the room exit doors. 10-2.2.2
- 46. Observed the corridor width serving rooms 252, 250 and 249 is 5' 5" in width. 10-2.3.2
- 47. Observed no required exit sign at the stairway near room 228. 10.2.10, 5-10
- 48. Observed no fire sprinkler in the IT room 226. 7-7, 13
- 49. Observed that it appeared no filter to be in the clothes dryer in room 221. 2-2
- 50. Observed ceiling tiles missing in room 220. 2-2, 10-3.6
- 51. Observed no ceiling has been installed in electric room 218 and the room is open to the corridor. 10-3.6
- 52. Observed penetrations of the smoke/fire separation, above the cross corridor doors, near room 201 are not fire stopped and the wall is not fire stopped at the top of the wall. 10-3.7, 6-3
- 53. Observed the stairway doors near rooms 242 and 243 are damaged and need repairs to operate correctly. 10-2.2.3, 5-2.1
- 54. Observed the door classroom 237 is damaged, split and off the top and middle hinge. 10-2.2, 5-2.1.4
- 55. Observed the sprinkler deflector in room 236 is blocked by a sagging tile. 25, 13
- 55. Observed the door to classroom 211 is damaged and separated from the top hinge. 10-2.2.3, 5-2.1

**3<sup>RD</sup> Floor**

- 56. Observed no fire extinguisher in science rooms. 10
- 57. Observed the use of an extinguisher cord to operate a refrigerator in room 309B1. 2-2
- 58. Observed the storage of boxes of filters in the southeast stairway. 5-1.3.2.3, 5-1.9
- 56. Observed no pressure gauges at the top any standpipes. NFPA 14
- 57. Observed the building Engineer does not have a key to operate the elevator. The elevator could not be inspected. 2-2
- 58. Observed no fire sprinkler in the 1<sup>st</sup> floor vestibule at the entrance to the Gymnasium. 13

Gerald E. Craft, Principal  
Tx: (313) 866-4500  
gerald.craft@detroitk12.org

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

<b>FACILITY NAME</b> Central High School	<b>INSPECTION DATE</b> 05/14/12	<b>COUNTY</b> Wayne	<b>PROJECT</b> 108130
<b>ADDRESS</b> 2425 Tuxedo	<b>FACILITY TYPE</b> School	<b>RULES/CODES</b> 99-School	<b>JOB/LIC/FAC. NO.</b> N/A
<b>CITY, STATE ZIP CODE</b> Detroit, MI 48206	<b>FACILITY REPRESENTATIVE</b> Principal		<b>INSPECTION TYPE</b> Safety
<b>FACILITY PHONE</b>	<b>PHONE 2</b>	<b>FACILITY FAX</b>	

**Re: Fire Safety Inspection**

A fire safety inspection was completed this date. The following deficiencies were noted during this inspection:

- Observed fire alarm panel indicates battery fault in West basement electrical room. 7-6.1.4
- Observed that the exit doors at the main office are blocked by the security station. 5-1.3.2.3
- Observed that the 3-West stairwell doors do not fully close and latch. Also, closers are missing or damaged. 5-2.1.8
- Observed sprinkler escutcheon plates missing throughout the building, including at science rooms 345 & 346. 7-7.5
- Observed that the smoke detectors in all of the electrical and hazard rooms have an orange dust cover in-place. (Maintenance to inspect and remove all covers). 7-6.1.4
- Observed unsealed ceiling penetrations in electrical room 336. 11-3.2
- Observed missing ceiling tiles at electrical room 336. 11-3
- Observed that fan room at room 335 is not sprinkler protected and has numerous wall penetrations to the corridor. 11-3.2
- Observed that fan room at room 317 is not sprinkler protected and has numerous wall penetrations to the corridor. (NOTE: School to provide documentation of sprinkler protection and/ or rated corridor separation). 11-3.2

<b>FIRE SAFETY CERTIFICATION</b> N/A	<b>PROJECT STATUS</b>	<b>REVIEWED BY</b> Mick Dingman
<b>INSPECTING OFFICIAL</b> Larry DeWachter, Fire Marshal Inspector	<b>ADDRESS</b> 525 W. Allegan Street, 4th Floor Lansing, MI 48933	
<b>SIGNATURE OF OFFICIAL</b> Larry DeWachter	<b>TELEPHONE</b> 248-888-8761	
	<b>FAX</b> 517-335-4061	
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- Observed unsealed penetrations in stairwell 9, to penthouse mechanical room. 11-3.2
- Observed unsealed wall penetrations and open conduits in 3<sup>rd</sup> floor west I.T. room. 11-3.2
- Observed that all but one exit door from the library is obstructed or has had the door handles removed. 5-1.3.2 3
- Observed combustible storage in electrical room 314. 11-3
- Observed that the door to electrical room does not fully close and self-latch. 5-2.1.8
- Observed that the door to the janitor's closet at room 307 does not self-close and latch. (NOTE: Maintenance to confirm all custodial, storage and hazardous rooms have self-closers). 5-2.1.8
- Observed unsealed penetrations in janitor's closet 307. 11-3.2
- Observed the door to ROTC does not fully close and self-latch. 5-2.1.8
- Observed that the closers on the 3<sup>rd</sup> floor stairwell 6 doors are broken. 5-1.3.2. 5-2.2.5.1
- Observed that the 2<sup>nd</sup> floor stairwell 6 doors do not latch. 5-1.3.2. 5-2.2.5.1
- Observed sprinkler system inspector's test valves are not labeled. 7-7.5
- Observed unsealed penetrations in corridor walls at science room 205. 11-3.2
- Observed unsealed ceiling penetrations in storage room 222. 11-3.2
- Observed unsealed wall/ ceiling penetrations and open conduit in the 2-East I.T. room. 11-3.2
- Observed that the second exit from the Band room does not have an approved exit sign. 5-10
- Observed that the building is 98% sprinkler protected. Certain fan rooms, vocal booth, stairwell 5, and center stairwell were found not sprinkled. 7-7
- Observed that the band storage rooms don't fully close and self-latch. 5-2.1.8
- Observed unsealed wall penetrations in the 2<sup>nd</sup> floor center, electrical room. 11-3.2
- Observed combustibles being stored in the 2<sup>nd</sup> floor center, electrical room. 11-3
- Observed unsealed wall penetrations in I.T. room 241. 11-3.2

- Observed that the 2-center stairwell doors do not latch. 5-1.3.2. 5-2.2.5.1
- Observed unsealed wall penetrations in 1<sup>st</sup> floor janitor's closet, at room 122. 11-3.2
- Observed that the door closer to the 1<sup>st</sup> floor janitor's closet, at room 122, is broken. 5-2.1.8
- Observed combustible storage in electrical room 130. 11-3
- Observed corridor ceiling tiles missing at room 129. 11-3.2
- Observed that the 1<sup>st</sup> floor stairwell 8 fire alarm strobe is damaged. 7-6
- Observed sprinkler heads in the boy's pool locker room are damaged. 7-7
- Observed unsealed wall/ ceiling penetrations in the stage storage room. 11-3.2
- Observed combustibles being stored in the rear exit vestibule. 5-1.3.2.3
- Observed doors chained in the rear exit vestibule. (Removed at time of inspection). 5-1.3.2.3
- Observed slide-bolt locks on the rear exit vestibule doors. 5-1.3.2. 5-2.2.5.1
- The school was unable to provide flame/ smoke spread rating data for stage curtains.
- Observed that the candela rating for the auditorium strobes were set to 15, which doesn't meet minimum requirements. 7-6
- Observed unsealed and improperly fire stopped penetrations in 1<sup>st</sup> floor main I.T. room. 11-3.2
- Observed that the smoke detector in electrical room 150 is covered. 7-6
- Observed unsealed penetrations in electrical room 150. 11-3.2
- Observed combustibles being stored in electrical room 150. 11-3
- Observed that the smoke detector in custodian office is covered. 7-6
- Observed that the south exit door from the kitchen serving line does not have a required exit sign. 5-10.
- Observed that the panic hardware on the south exit cafeteria doors is broken. 5-2.1.7
- Observed an orange extension cord in the cafeteria being used as permanent wiring.
- Observed that the SW exit doors from the cyber café to the pool have slide-bolt latches. 5-2

- Observed that the exit sign in the gym locker room 112 is damaged. 5-10
- Observed that the sprinkler head in the south gym storage room is taped. 7-7
- Observed that the smoke detector in the I.T. closet to the right of room 106 is covered. 7-6
- Observed that the doors to the cyber café are part of the egress corridor and were found with slide-bolt latches and padlocked. 5-2
- Observed that the exit sign above the doors to the cyber café points to an unapproved exit, through the gym. 5-2

#### RECORDS REVIEW

The facility was unable to locate inspection and testing documentation for the following:

- Fire alarm system
- Sprinkler system
- Fire pump
- Fire extinguishers
- Kitchen hood suppression system
- Fire and tornado drill logs
- Hose cabinet inspection & testing records
- Emergency lighting

\*\*\*\*\*END OF REPORT\*\*\*\*\*

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME <b>Denby High School</b>	INSPECTION DATE <b>5-3-12</b>	COUNTY <b>Wayne</b>	PROJECT <b>108107</b>
ADDRESS <b>12800 Kelly</b>	FACILITY TYPE <b>Existing School</b>	RULES/CODES <b>'99 School Rule</b>	JOB/LIC/FAC. NO.
CITY, STATE ZIP CODE <b>Detroit MI 48205</b>	FACILITY REPRESENTATIVE <b>Principal</b>	INSPECTION TYPE <b>Safety</b>	
FACILITY PHONE <b>(313) 868-7200</b>	PHONE 2	FACILITY FAX <b>(313) 868-2032</b>	

**Re: Fire Safety Inspection.**

A fire safety inspection was completed this date.

The building was constructed in 1930 and is type II unprotected steel. It is 3 stories with a basement and an addition constructed in 2010. The addition is Type II (222) construction, fully sprinkler protected. The building was reviewed using the 1999 Michigan School Fire Safety Rules Existing.

1. Observed an ROTC shooting range located in the basement. The space has only 1 means of egress, is not sprinkler protected, has no emergency lighting in the room or the stairway outside and no egress marking. 11-2
2. Observed all stairway doors to be non positive latching. 11-3.1, 5-1.3, 6-2.4
3. Observed no fire rated glazing in all stairway doors and other doors that enter directly into the stairway. 11-3.1, 5-1.3, 6-2.4
4. Observed all stairway doors to be non self-closing and non latching. 11-3.1, 6-2.4
5. Observed drop leg door holders attached to doors opening into any stairway. 11-3.1
6. Observed cameras, wiring and conduit penetrating all stairways. Penetrations are not permitted unless serving a life safety function for the opening. 5-1.3.2(c)
7. Observed no smoke resistant separation between the elevator corridor and the main corridor on each floor of the building. The doors shall be self-closing. All the doors were open or missing 11-3.6.1(5)
8. The Boiler room shall be separated from student occupied areas by construction providing at least a 1 hour fire separated. 11-3.2
9. Secure all cross corridor gates so the corridors remain clear of any obstructions at all times. 5-4, 5-5
10. Fire extinguisher cabinets shall be provided with an approved means of breaking the glass to reach the extinguisher inside. NFPA 10
11. Provide the annual/semi annual inspection/test records for the fire alarm system, sprinkler system and kitchen hood suppression system. These reports shall remain at the school for review. NFPA 13, 25, 96.
12. Provide documentation of the required fire drills.
13. Observed out of compliance date standpipe hoses in the Auditorium. NFPA 14
14. Provide records for the testing of the emergency lighting throughout the building. 5-9

FIRE SAFETY CERTIFICATION <b>N/A</b>	PROJECT STATUS <b>N/A</b>	REVIEWED BY <b>Mick Dingman</b>
INSPECTING OFFICIAL <b>Patrick Tutak, Fire Marshal Inspector</b>	ADDRESS	<b>525 W. Allegan, 4<sup>th</sup> Floor</b>
SIGNATURE OF OFFICIAL <i>Patrick Tutak</i>	TELEPHONE	<b>Lansing, MI 48933</b>
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	E-MAIL	<b>517-335-4061</b> <b>tutakp@michigan.gov</b>
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15. Guardrails were not observed in the Auditorium above the "tunnels" as required. 9-2.11

**3<sup>rd</sup> Floor.**

16. Observed blocking of the emergency escape window with files in room 310. 11-2.11.1
17. Observed the storage of materials in the room overlooking the 2<sup>nd</sup> floor Library. 11-3.2
18. The 3<sup>rd</sup> floor room noted above shall be constructed as a smoke barrier at a minimum. 6-2.4
18. Install a fire alarm audio/visual device in the 3<sup>rd</sup> floor computer storage room. Procedure 05-27
19. Observed a missing fire sprinkler guard in the ROTC room. NFPA 13, 25
20. Observed exposed wiring located in the interior stairway housing the Gym room divider. 2-2
21. Observed wires in the conduit installed in the west of the Gym at the Track were not properly fire stopped.
22. Observed the storage room door, located off of the track, was not positive latching when closed. 11-3.2
23. Observed the use of an unapproved device to hold the music storage room door in the open position. 11-3.2
24. Observed the music storage room door does not positive latch when closed. 11-3.2
25. Observed the door storage room 300C to be no positive latching when closed. 11-3.2

**2<sup>nd</sup> Floor.**

26. Observed wood paneling used to create a new room in the rear room of the Home Economics classroom. The paneling is not installed per the Code. 2-2
27. Observed a Jury Box constructed using wood paneling in use in the Student Courtroom. 2-2
28. The classroom next to the Library is over 250 sq ft and is windowless. The Library is being used as an intervening room for escape in an emergency. No approved fire detection device in the library was observed. 11-2.11.1, 11-2.5.2
29. Observed the Clock/Telephone room door to be non positive latching when closed. 11-3.2
30. In the Janitor Closet near room 219, observed an unprotected conduit penetrating the floor. 11-3.2
31. Observed penetrations of the dark room ceiling. 11-3.2
32. Provide data indicating the plastic heat duct at the top of the kiln in the Art room complies with the manufacturer's requirements or remove the duct. 11-3.2
33. The Gym storage room doors shall provide a 1 hour fire resistance rating. 11-3.2
34. Remove and discontinue all storage in the south, Level 2, stairway. 5-1.9
35. Room 226 has no emergency escape window and observed no approved fire detection device in the intervening room as required by the Code. 11-2.11.1, 11-2.5.2
36. Room 104I is greater than 250 sq ft. and has no emergency escape widow as required. 11-2.11.1
37. Observed penetrations of the elevator machine room. 11-3.2
38. Observed storage in the classroom next to room 102B. This room is not a rated storage room 11-3.2
39. The fire alarm system shall be inspected and tested. The panel is showing many trouble and supervisor signals. 11-3.4
40. Room 104I is greater than 250 sq ft. and has no emergency escape widow as required 11-2.11.1
41. Then room across from room 101A is greater than 250 sq ft. and has no escape window as required. 11-2.11.1
42. The emergency escape in room 113E is screwed shut. Repair the window to operate as required. 11-2.11.1

Inspection Report

43. Secure the ceiling hatch in the Janitor Closet near room 121C closed. 11-3.2
44. Observed the door to room 121C to not properly close to positive latch. 11-3.6.1(5)
45. Observed IT wire hanging from the corridor ceiling and penetrating the corridor wall above stairway door to the ROTC shooting range. 11-3.6.1(5)
46. Observed a free standing acetylene cylinder in the mechanical room next to the ROTC shooting range 2.2

cc:

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME Henry Ford High School	INSPECTION DATE 05/18/12	COUNTY Wayne	PROJECT 108134
ADDRESS 20000 Evergreen	FACILITY TYPE School	RULES/CODES 99-School	JOB/LIC/FAC. NO. N/A
CITY, STATE ZIP CODE Detroit, MI 48219	FACILITY REPRESENTATIVE Principal		INSPECTION TYPE Safety Inspection
FACILITY PHONE	PHONE 2	FACILITY FAX	

**Re: Fire Safety Inspection**

A fire safety inspection was completed this date. The following deficiencies were noted during this inspection:

- Observed that the door to the Book Store was not self-closing and latching. 5-2.1.8
- Observed violations on all stairwell doors ranging from broken/ missing glass, doors not latching and missing all together. 5-1.3.2., 5-2.2.5.1 The following was also noted:
  - \* Stairwell 5, windows broken and missing and doors do not latch.
  - \* Stairwell 3 doors do not latch
  - \* The glass in the fire doors to the "Bridge" is broken.
- Observed that the door to Janitor's closet BS-LL is not self-closing and latching. 5-2.1.8
- Observed that room 307A is being used for storage and is not sprinkler protected or have the required separation. 11-3.2.1
- Observed an unsealed wall penetration in the storage room next to stairway 5. 11-3.2.1
- Observed that the mechanical room across from room 313 is not sprinkler protected or have the required separation. 11-3.2.1.

FIRE SAFETY CERTIFICATION N/A	PROJECT STATUS	REVIEWED BY Mick Dingman
INSPECTING OFFICIAL Larry DeWachter, Fire Marshal Inspector	ADDRESS	525 W. Allegan Street, 4th Floor Lansing, MI 48933
SIGNATURE OF OFFICIAL <i>Larry DeWachter</i>	TELEPHONE	248-888-8761
	FAX	517-335-4061
	E-MAIL	dewachterL@michigan.gov
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- Observed that the storage room at the 3<sup>rd</sup> floor stairwell is not sprinkler protected or properly separated. 11-3.2.1.
- Observed that the IDF-4/ storage room is not sprinkler protected or properly separated. 11-3.2.1.
- Observed unsealed wall and ceiling penetrations in the 3<sup>rd</sup> floor MDF room. 11-3.2.
- Observed that the closer on door to room 210X is broken. 5-2.1.8.
- Observed unsealed floor and ceiling penetrations in janitor's storage room 5. 11-3.2.
- Observed that lock to storage closet across from room 224 was broken and was unable to confirm compliance.
- Observed that the exit sign above the door to the 2<sup>nd</sup> floor "Bridge" is broken. 5-10
- Observed that the exit door from Green Technology to stairwell 13 would not open when tested. 5-2.1.5.1
- Observed an unsealed penetration in the exit door from Green Technology to stairwell 13. 6-2.4.
- Observed combustibles being stored in mechanical room 25. 2-2.
- Observed a large unsealed ceiling penetration in storage room 125. 11-3.2.
- Observed that the closer on the door to mechanical room 125 is broken. 5-2.1.8.
- Observed that the closer on the door to mechanical room 21 is broken. 5-2.1.8.
- Observed that the two egress doors to the "Courtroom" are padlocked. 5-2.1.5.1
- Observed that the fire egress windows are not labeled. 2-2.
- Observed that the sprinkler in the kitchen is painted. 7-7.
- Observed combustibles being stored in mechanical room 11. 2-2.
- Observed that the exit signs in the receiving room are missing. 5-10.
- Observed that the corridor to the loading dock did not fully self-close and latch. 5-2.1.8.
- Observed that the door to the storage room across from room 103 is not latching.

**RECORDS:**

The facility was unable to provide inspection and testing records for the following systems:

- Fire extinguishers (Last inspected 2010)
- Kitchen hood suppression System (Last inspected 2006)
- Fire Alarm system (Last inspected 2010)
- Sprinkler system (Last inspected 2009)
- Fire pump (Last inspected 2006)
- Emergency lights
- Fire and tornado safety drills.
- Hose cabinets (Last inspected 2006)
- Documentation that stage curtains meet rating requirements.

\*\*\*\*\*END OF REPORT\*\*\*\*\*

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME Pershing High School	INSPECTION DATE 05/10/12	COUNTY Wayne	PROJECT 108128
ADDRESS 18875 Ryan	FACILITY TYPE School	RULES/CODES 99-School	JOB/IC/FAC. NO. N/A
CITY, STATE ZIP CODE Detroit, MI 48221	FACILITY REPRESENTATIVE Principal		INSPECTION TYPE Safety Inspection
FACILITY PHONE	PHONE 2	FACILITY FAX	

**Re: Fire Safety Inspection**

A fire safety inspection was completed this date. The following deficiencies were noted during this inspection:

- Observed fire escape windows are not labeled and are obstructed with classroom supplies. 11-2.11.1
- Science rooms shall be separated from the corridor by 1-hour construction. 11-3
- Observed that the glass in door to classroom 207 is missing. 11-3
- Observed that every stairwell had one or more of the following problems: Door missing, doors did not fully close and latched. Glass broken or missing. No doors were self-closing. 5-2.1.8
- Observed fire extinguishers and alarm pull stations are enclosed in a metal/ glass enclosure and no striker tool.
- Observed exit sign at stairwell 2, second floor was not illuminated. 5-10.
- Observed 2<sup>nd</sup> floor Janitor's closet at stairwell 2, does not self-close and latch. 5-2.1.8
- Observed unsealed wall penetrations in 2<sup>nd</sup> floor Janitor's closet at stairwell 2. 11-3.2
- Observed stairwell 2 doors chained shut. (Corrected during inspection).
- Observed the door to classroom 227 that opens into the stairwell does not have the required self-closers. This requirement is the same for any classroom that opens into a stairwell. 5-2.1.8

FIRE SAFETY CERTIFICATION N/A	PROJECT STATUS	REVIEWED BY Mick Dingman
INSPECTING OFFICIAL Larry DeWachter, Fire Marshal Inspector	ADDRESS	525 W. Allegan Street, 4th Floor Lansing, MI 48933
SIGNATURE OF OFFICIAL <i>Larry DeWachter</i>	TELEPHONE	248-888-8761
	FAX	517-335-4061
	E-MAIL	dewachterL@michigan.gov
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- Observed unsealed penetrations above the doors to stairwell 6. 11-3.2
- Observed that the doors to the gym storage rooms are not self-closing. 5-2.1.8
- Observed the exit doors from Gym chained shut or locked against egress. (Corrected during inspection).
- Observed gym egress doors and stairwells blocked by storage. 11-3
- Observed stairwell door from gym missing. 5-2.1.7
- Observed exit signs throughout building broken or missing. 10-5
- Observed unsealed wall penetration in stairwell 5, second floor. 11-3
- Observed missing door glass in stairwell 5, second floor. 6-2.4
- Observed the sprinkler head in the 2<sup>nd</sup> floor janitor's closet, at stair 3, painted. 7-7
- Observed multiple unsealed wall & ceiling penetrations in the 2<sup>nd</sup> floor janitor's closet at stairwell 5. 11-3
- Observed an unsealed wall penetration in office 202. 11-3
- Observed that the doors to the 2<sup>nd</sup> floor freight elevator lobby are not self-closing. 5-2.1.8
- Observed that the glass in the 3<sup>rd</sup> floor stairwell 4 windows is not rated. 11-3.2
- Observed that storage room 316 is not rated or sprinkler protected. 11-3
- Observed all exit doors from the 3<sup>rd</sup> floor track were chained shut.
- Observed that the 3<sup>rd</sup> floor stairwell 6 rated doors were missing. 6-2.4
- Observed that the door to the 3<sup>rd</sup> floor store room at room 301A is not self-closing and latching. 5-2.1.8
- Observed that the floor/ ceiling penetrations in the 3<sup>rd</sup> floor store room at 301A are sealed with unapproved caulk. 11-3.2
- Observed numerous painted sprinkler heads throughout the building. 7-7
- Observed discarded cigarette butts in the stairwell from the stage to mezzanine.
- Observed combustibles being stored in the stairwell between the stage and mezzanine. 6-2.4
- Observed that the doors to the storage rooms off the stage do not fully close and self-latch. 5-2.1.8
- Observed unsealed wall penetrations in the stage storage rooms. 11-3.2

- **Observed both stairwells from the stage to exit corridor were obstructed by storage and combustibles. 11-3.2**
- **Observed that both exit lights from the stage to exit corridor were not illuminated. 5-10**
- **Observed unsealed wall penetrations in both stage exit stairwells. 6-2.4**
- **Observed numerous unsealed wall penetrations in fan rooms 3 & 4. Submit documentation that all fan rooms are sprinkler protected or properly separated. 11-3**
- **Observed that the sprinkler riser and fire pump lines have numerous leaks. 7-7**
- **Observed only two spare sprinkler heads and no wrench. 7-7**
- **Observed two R.O.T.C. groups occupying unapproved classrooms in the basement. Each room has only one exit. One classroom must exit through fan room 3. 11-2**
- **Observed pool/ weight room and showers are no longer used. If the school intends to reoccupy, the area must meet egress requirements. 5-2.1.7**
- **Observed corridor between boy's & girl's locker rooms is being used for storage. However, the area being used is not separated or sprinkler protected. 11-3.2**
- **Observed that the band room exit sign is not illuminated. 5-10**
- **Observed the second exit from the band room does not meet the intervening space requirements.**
- **Observed that the doors in the walkway between the existing building and the addition do not have approved exit signs. 5-10.**
- **Observed the sprinkler control valve in the corridor at room 153 is not electronically supervised. 7-7**
- **Observed that the emergency lights in room 153 did not function when tested. 5-9**
- **Observed that the emergency escape window in classroom 153 was screwed shut. 11-2.11.1**
- **Observed that the two classrooms on the D-Tec 2<sup>nd</sup> floor only have one approved exit. The second egress is filled with combustibles blocking the door and the exit door opens inward. 5-2.1.7**
- **Observed unsealed wall penetrations in the corridor at the office. 11-3.2**
- **Observed that the doors to the auditorium are not self-closing and latching. 5-2.1.8**
- **Observed that the sprinkler heads in the kitchen are painted. 7-7**

- Observed that none of the exit signs in the auditorium were illuminated. 5-10
- Observed that the doors to the cafeteria are missing windows. 5-1.3

#### RECORDS REVIEW

The facility was unable to locate inspection and testing documentation for the following:

- Fire alarm system
- Sprinkler system
- Fire pump
- Fire extinguishers
- Kitchen hood suppression system
- Fire and tornado drill logs
- Hose cabinet inspection & testing records
- Emergency lighting

\*\*\*\*\*END OF REPORT\*\*\*\*\*

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME Marion Law Academy	INSPECTION DATE 05/08/12	COUNTY Wayne	PROJECT 108110
ADDRESS 19411 Cliff St.	FACILITY TYPE School	RULES/CODES 99-School	JOB/LIC/FAC. NO. N/A
CITY, STATE ZIP CODE Detroit, MI 48234	FACILITY REPRESENTATIVE Administrator		INSPECTION TYPE Safety Inspection
FACILITY PHONE	PHONE 2	FACILITY FAX	

**Re: School Safety Inspection**

A school fire safety inspection was completed this date at the above listed facility. The areas inspected were actually two separate buildings not connected.

Building 1 Elementary: Two-story, fully sprinkled building, constructed in 2001. Was determined to be construction type II (000).

Building 2 Middle School: Two-story, limited sprinkler system (Hazard rooms only), constructed in the 1930's. Was determined to be construction type I (222).

**The following deficiencies were noted during the inspection of building 1:**

- **Observed that the protective caps for the FDC (Fire Department Connection) are missing. NFPA 13**
- **Observed unsealed wall penetrations in the 2<sup>nd</sup> floor fan room.11-3.2**
- **Observed that the fire extinguisher in the mechanical room was last inspected in 2005. Further inspection revealed that all extinguishers are past due for inspection and service. 2-2**
- **Observed multiple unsealed ceiling penetrations in the C-wing electrical room. 11-3.2**
- **Observed fire escape windows are not labeled and obstructed. 11-2.11.1**
- **Observed the ceiling tiles in the instrument storage room missing. 11-3.2**
- **Observed that kitchen hood suppression system has not been inspected since 2006. (Note: Maintenance director states that kitchen is used for warming food only). NFPA 96**

FIRE SAFETY CERTIFICATION N/A	PROJECT STATUS N/A	REVIEWED BY Mick Dingman
INSPECTING OFFICIAL Larry DeWachter, Fire Marshal Inspector	ADDRESS 525 W. Allegan Street, 4th Floor Lansing, MI 48933	
SIGNATURE OF OFFICIAL <i>Larry DeWachter</i>	TELEPHONE 248-888-8761	
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- **Observed fire pump is leaking and requires repair. No inspection or testing documentation was available for review.**
- **Observed that the B-wing stairwell doors did not fully close and latch when tested. 11-3.1**
- **Observed that the lock in the door to room 113 was removed resulting in a penetration open to the corridor. 11-3.6**

**The following deficiencies were noted during the inspection of building 2:**

- **All custodial closets, storage and hazardous rooms shall be sprinkler protected/ or 1-hour separated. Any rooms exceeding 100 square feet shall require both. It was observed that most hazardous rooms are already sprinkler protected and meet the size requirement and will just require a self-closer to be installed. 11-3.2**
- **Observed fire escape windows are not labeled and obstructed. 11-2.11.1**
- **Observed that the doors at room 102 and vestibule 2 require approved illuminated exit signs. 11-2.8**
- **Observed that the kitchen storage room is not sprinkler protected and does not meet separation requirements. 11-3.2**
- **The door to stairwell exit #3 is not fully closing. 11-3.1**
- **The stage fire hose was last tested in 2006.**
- **The stage exit lights are damaged and not illuminated. 11-2.9**
- **The exit signs throughout the auditorium are damaged and/ or not illuminated. 11-2.7**
- **Observed an unsealed wall penetration above exit door #4 from the auditorium. 11-3.2**
- **The rated doors separating the gym from the corridor are damaged and do not fully close and latch. 11-3.2**
- **Remove the fold down legs holding classroom and hazardous room doors open. 11-3.2**

**RECORDS REVIEW FOR BOTH BUILDINGS**

**The facility was unable to locate inspection and testing documentation for the following:**

- **Fire alarm system**
- **Sprinkler system**
- **Fire pump**
- **Fire extinguishers**
- **Kitchen hood suppression system**
- **Fire and tornado drill logs**
- **Hose cabinet inspection & testing records**
- 

**\*\*\*\*\*END OF REPORT\*\*\*\*\***

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME Nolan School	INSPECTION DATE 5-11-12	COUNTY Wayne	PROJECT 108129
ADDRESS 1150 East Lantz Street	FACILITY TYPE School	RULES/CODES '99School Rule	JOB/LIC/FAC. NO.
CITY, STATE ZIP CODE Detroit MI 48203	FACILITY REPRESENTATIVE Bilal Tawwab, Principal		INSPECTION TYPE Safety
FACILITY PHONE (313) 866-7730	PHONE 2 bilal.tawwab@detroitk12.org	FACILITY FAX (313) 866-7725	

**Re: School fire safety inspection.**

A fire safety inspection was completed this date. The deficiencies noted shall be corrected.

The building, constructed in 1923, is 2 stories, with a basement, type I construction, partially sprinkler protected. Occupancy is Pre-K through 8<sup>th</sup> grade. The building was inspected using the existing portion of the school rules.

1. Observed copies for the following annual inspections are not available:
  - A. Fire Alarm. NFPA 72
  - B. Fire Sprinkler. NFPA 25
2. Observed documentation for the performance of fire drills is not available. 1- 7.1, 10-7.1
3. Observed the protective caps have been removed from the fire department connection. NFPA 25
4. Observed the emergency escape windows are the hopper type, 344 sq. in. and have a height of 18". 11-2.11.1(4)
5. Observed the glass in room 227 corridor door is missing. The door is not smoke resistant. 11-3.6.1(5)
6. Observed that not all emergency lights are operational. The Engineer stated he has ordered 22 replacement batteries. 11-2.9, 5-9
7. Observed room 217 is used as a storage room and not properly fire separated from other areas. 11-3.2.1
8. Observed the glass in the door to room 215 is loosed and not smoke resistant. 11-3.6.1(5)
9. Observed all fire extinguishers are in need of inspection/testing. The last inspection date on the extinguishers in 2009. NFPA 10
10. Observed the fire extinguisher cabinets have no way of breaking the plexiglass window of the cabinet to reach the extinguisher. NFPA 10
11. Observed that the school is unable to provide the interior finish documentation for the platform curtains and draperies. 11-3.3
12. Observed the door frame to room 214 is broken, pulling away from the wall and not smoke resistant. 11-3.6.1(5)
13. Observed room 218 is used as a storage room and not properly fire separated from other areas. 11-3.2.1

FIRE SAFETY CERTIFICATION Disapproved	PROJECT STATUS Open	REVIEWED BY Mick Dingman
INSPECTING OFFICIAL Patrick Tutak, Fire Marshal Inspector	ADDRESS 525 W. Allegan, 4 <sup>th</sup> Floor Lansing, MI 48933	
SIGNATURE OF OFFICIAL <i>Patrick Tutak</i>	TELEPHONE 248-888-8762	
	FAX 517-335-4061	
	E-MAIL tutakp@michigan.gov	
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14. Observed no illuminated exit sign in the corridor near room 210. 11-2.10, 5-10
15. Observed that St John Hospital has a clinic on the 1<sup>st</sup> floor and observed the following:
  - A. Penetrations of the corridor wall are not fire stopped. This does not provide a 2 hour fire separation. 11-1.2.1(a)
  - B. The glass in the fire rated corridor is safety glass not fire rated. NFPA 80
  - C. The corridor is not equipped with a self closing device. 80
16. Observed the clinic emergency light is not operational. 11-2.9, 5-9
17. Observed the windows used for emergency escape are less than 22" in height. 11-2.11.1(4)
18. Remove the exit sign from the storage room entrance. 5-10
19. Observed the Gymnasium storage room doors are not self closing. 11-3.2
20. Observed the handle to the emergency escape window in room 109 is broken. 11-2.11
21. Observed the fire extinguisher in room 109 has been discharged and not serviced. 10
22. Observed throughout the building that the emergency escape windows could not be pushed open far enough to latch in the open position. 11-2.11
23. Observed a table blocking the door at exit #5. 5-1.9.1

cc:

Bilal Tawwab, Principal  
Tx: (313) 866-7730  
bilal.tawwab@detroitk12.org

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME Brenda Scott Academy	INSPECTION DATE 5-7-12	COUNTY Wayne	PROJECT 108109
ADDRESS 18400 Hoover	FACILITY TYPE School	RULES/CODES '99 School Rule	JOB/LIC/FAC. NO.
CITY, STATE ZIP CODE Detroit MI 48205	FACILITY REPRESENTATIVE Ronnie Simms, Principal		INSPECTION TYPE Safety
FACILITY PHONE (313) 866-6700	PHONE 2 ronnie.sims@detroitk12.org	FACILITY FAX	

**Re: Fire Safety Inspection.**

A fire safety inspection was completed this date using the 1999 School Rules, new construction. The school was constructed in 2003 and is fully sprinkler protected. The school is occupied for children grades Pre-K through 8.  
The deficiencies noted shall be corrected.

1. Observed a birds nest in the fire department connection. NFPA 25  
A bird flew out of the connection when tested.
2. The sprinkler system shall be tested for obstructions at least every 5 years. 25, table 2-1
3. The sprinkler gauges shall be tested or replaced at least every 5 years. 25, table 2-1
4. Replace the missing fire department connection protective cap. NFPA 25
5. Provide copies of the annual and semi-annual inspection/tests for the fire alarm system, sprinkler system, kitchen hood suppression system and emergency generator. No records were available NFPA 25, 72, 96, 110
6. Lower the boxes in the Audio Visual storage room to be at least 18" beneath the sprinkler deflector. NFPA 13
7. Observed missing ceiling throughout the Library space. This must be in place to maintain the smoke resistance rating. 10-3.6
8. Reconfigure the fire alarm strobe in the Library Tech. Processing room so as to be seen throughout the room or move the free standing cabinets in the room. NFPA 72
9. Discontinue the use of delayed egress devices on classrooms throughout the facility until properly installed with the fire alarm. 5-2.1.6
10. Observed damaged ceiling in the band instrument storage room. 10-3.6
11. Observed penetrations of the walls of the electrical room, near room 111, repair to provide smoke resistance ratings. 10-3.6
12. Observed penetrations of the walls in the mechanical room, near room 111 do not provide smoke resistance. 10-3.6
13. Service and tag with the date of the service all the fire extinguishers throughout the building. All extinguishers observed were passed due for inspection/service. NFPA 10

FIRE SAFETY CERTIFICATION N/A	PROJECT STATUS N/A	REVIEWED BY Mick Dingman
INSPECTING OFFICIAL Patrick Tutak, Fire Marshal Inspector	ADDRESS	525 W. Allegan, 4 <sup>th</sup> Floor Lansing, MI 48933
SIGNATURE OF OFFICIAL <i>Patrick Tutak</i>	TELEPHONE	248-888-8762
	FAX	517-335-4061
	E-MAIL	tutakp@michigan.gov
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14. Rotunda space. It was observed that the walls above the cross corridor doors were not fire stopped at the deck above or at penetrations. These appear to be a smoke and/or fire barriers. 10-3.7
15. Observed a gap between the fire rated sets of doors in the Rotunda to be not greater than 1/8" when the doors are closed. NFPA 80
16. Observed no safety rated glazing in place above the fire rated doors in the Rotunda. NFPA 80
17. Observed the doors in the rotunda to not close to positive latch and open in a free and easy manner. NFPA 80.
18. Observed no fire damper inspection/testing documentation as required. 101, 90A, 90B
19. The exposed wiring above the ceiling near the Physical Therapy office shall be properly concealed. 2-2, NFPA 70
20. Install additional fire alarm audio/visual devices in the penthouse mechanical space as required. NFPA 72
21. Observed penetrations of the ceiling and walls of the electric room inside the girls locker room. 2-2
22. Remove the tape from the fire sprinkler in the gym girls and boys locker room janitor closets. NFPA 13
23. Observed the pan in Gym janitor closet was blocking the spray pattern of the sprinkler. nffa 13
24. Replace the missing tiles in the Gym locker rooms. 2-2
25. Discontinue the practice of parking an automobile on the side walk near the east set of exit doors from the Gym. This practice blocks the sidewalk and egress from the building. 5-1.9, 5-7.1
26. Provide documentation that the platform curtains comply with the Code for interior finish regarding flame and smoke generation. 10-3.3, 6-5
27. Observed a rust covered fire sprinkler in the kitchen cooler. 25
28. Observed an accumulation of combustible debris in the elevator pit. 2-2
29. Observed the stairway door near room 101 to not properly close and latch. 5--2

#### 2<sup>nd</sup> Floor.

30. Observed the north stairway doors do not properly close and positive latch. 5--2
31. All science room corridor gas shut offs are not properly labeled. NFPA 45
32. Observed the fire rated cross corridor doors near the staff lounge do not properly close to positive latch. 5-2.3
33. Observed the Rotunda stairway doors do not close to positive latch. 5-2

#### 3<sup>rd</sup> Floor

34. Remove the tape from the fire alarm pull station located at the Rotunda stairway. 2-2, 72
35. Observed the Rotunda stairway doors do not close and positive latch. The doors are binding on the floor. 5-1.3.2, 80
36. Observed the fire/smoke rated cross corridor doors near room 310 do not close and positive latch. 5-2.3
37. Observed the stairway doors near room 310 do not close and positive latch. 5-2
38. Observed the corridor door for science room 306 to operate in a free and easy manner. The door is coming off the hinges. 5-1.9
39. The stairway doors near room 308 do not close to positive latch. 5-2

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME Bethune School	INSPECTION DATE 05/16/12	COUNTY Wayne	PROJECT 108132
ADDRESS 8145 Puritan	FACILITY TYPE School	RULES/CODES 99-School	JOB/LIC/FAC. NO. N/A
CITY, STATE ZIP CODE Detroit, MI 48238	FACILITY REPRESENTATIVE Principal		INSPECTION TYPE Safety Inspection
FACILITY PHONE	PHONE 2	FACILITY FAX	

**Re: Fire Safety Inspection**

A fire safety inspection was completed this date. The following deficiencies were noted during this inspection.

- Observed that custodian closet 130A has several unsealed ceiling penetrations. NFPA 11-3.2
- Observed a sprinkler heads painted in workroom 124A. 7-7
- Observed that all emergency escape windows are secured with screws and will not open. It was also observed that none of the windows are labeled and are obstructed by classroom supplies. 11-2.11.1. (Note: These windows are 80 lbs and only supported by 40 lb springs).
- Observed that the door to workroom 124A is not self-closing and latching. 5-2.1.8
- Fire rated shutters are not functioning. (Note: Due to the number of malicious false alarms, it is permissible to activate shutters on local smoke alarm only). 11-1.6/26-1.6
- Observed that the school did not have the required number of spare sprinkler heads and wrench. 7-7
- Observed that the kitchen storage room is not sprinkler protected or properly separated. 11-3.2
- Observed the closet under the stairs at security entrance is being used for storage. There shall be no enclosed, useable space within an exit enclosure, including under stairs, nor shall any open space within the enclosure be used for any purpose that has the potential to interfere with egress. 5-2.2.5.3

FIRE SAFETY CERTIFICATION N/A	PROJECT STATUS	REVIEWED BY Mick Dingman
INSPECTING OFFICIAL Larry DeWachter, Fire Marshal Inspector	ADDRESS	525 W. Allegan Street, 4th Floor Lansing, MI 48933
SIGNATURE OF OFFICIAL <i>Larry DeWachter</i>	TELEPHONE	248-888-8761
	FAX	517-335-4061
	E-MAIL	dewachterL@michigan.gov
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- **Observed unsealed ceiling penetrations in custodial closet 113A. 11-3.2**
- **Observed that the door to custodian closet 113A does not fully close and self-latch. 5-2.1.8 (Note: All custodial closets, storage and hazardous rooms doors shall be self-closing and latching).**
- **Observed that the sprinkler head in the Green Lawn entrance under stair storage closet is obstructed. 7-7.1.1. There shall be no enclosed, useable space within an exit enclosure, including under stairs, nor shall any open space within the enclosure be used for any purpose that has the potential to interfere with egress. 5-2.2.5.3**
- **Observed unsealed ceiling penetrations in the custodial/ I.T. room. 11-3.2**
- **Observed that the door to the custodial closet 207A is not self-closing. 5-2.1.8**
- **Observed that the sprinkler in the Custodial/ I.T. room is obstructed by a light fixture. 7-7.1.1**
- **Observed unsealed ceiling penetrations in storage room 207C. 11-3.2**
- **Observed the door to storage room 207C is not self-closing. 5-2.1.8**
- **Parent room 105 storage closet door is not self-closing. 5-2.1.8**

**RECORDS:**

**The facility was unable to provide inspection and testing records for the following systems:**

- **Fire extinguishers (Last Inspected 2010)**
- **Kitchen hood suppression System (Last Inspected 2006)**
- **Fire Alarm system (Last Inspected 2010)**
- **Sprinkler system (Last Inspected 2009)**
- **Emergency lights**
- **Fire and tornado safety drills.**
- **Hose cabinets (Last Inspected 2006)**
- **Documentation that stage curtains meet rating requirements.**

\*\*\*\*\***END OF REPORT**\*\*\*\*\*

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME Burns School	INSPECTION DATE 5-17-12	COUNTY Wayne	PROJECT 108133
ADDRESS 14350 Terry	FACILITY TYPE School	RULES/CODES '99 School Rule	JOB/LIC/FAC. NO.
CITY, STATE ZIP CODE Detroit MI 48227	FACILITY REPRESENTATIVE Jacquelyn Caldwell, Principal		INSPECTION TYPE Safety
FACILITY PHONE (313) 852-0534	PHONE 2 jacquelyn.caldwell@detroitk12.org	FACILITY FAX (313) 852-0539	

**Re: Fire safety inspection.**

A fire safety inspection was completed this date. The deficiencies noted shall be corrected.

The building was constructed in 1923, is 2 stories and occupied as a K-8 school. Construction type is I and IV. The building has limited sprinkler protection. The building was inspected using the existing portion of the 1999 School Rules.

1. Observed the use of tables and chairs to block and/or funnel students to use one or less sets of doors at exits. This was observed at 4 exits throughout the 1st floor of the building. 2-2, 5-1, 9, 1  
The building Engineer and the Security Officer were told of the issue, said they would comply and started removing them while I was there.
2. Observed wiring penetrating the door frame of classroom 204 is not sealed to be smoke resistant. 11-3.6.1(5)
3. Observed the emergency escape window in classroom 206 is screwed shut. 11-2, 11
4. Observed all fire extinguishers are at least 1 year passed due for inspection and service. Some extinguishers were discharged. NFPA 10
5. Observed only 2 dry chemical fire extinguishers in the building. NFPA 10
6. Observed no fire rated fire door or frame installed to room 222, which is used for storage. 11-3.2 The door frame is broken and is not smoke resistant.
7. Observed throughout the building, no tool to use at each location, to break the glass and gain access to the fire alarm pull stations. NFPA 72
8. Observed in the storage room near classroom 219, stored items were within 18" of the sprinkler deflector in the center of the room. 11-3.5, 7-7
9. Observed in room 213 the conduit penetrating the ceiling into the attic is not fire stopped. 11-3.1
10. Observed the corridor door to classroom 205 has a double action locking device. 2-2
11. Observed that the classroom across from room 205 is used for combustible storage. The room is not constructed for the use and the door handles are missing. 11-3.2
12. Observed flat top lockers installed in the south corridor. 2-2.
13. Observed the penetration of air conditioning piping into the attic above the computer head

FIRE SAFETY CERTIFICATION Disapproved	PROJECT STATUS Open	REVIEWED BY Mick Dingman
INSPECTING OFFICIAL Patrick Tutak, Fire Marshal Inspector	ADDRESS 525 W. Allegan, 4 <sup>th</sup> Floor	Lansing, MI 48933
SIGNATURE OF OFFICIAL <i>Patrick Tutak</i>	TELEPHONE 248-888-8762	517-335-4061
	FAX tutakp@michigan.gov	
	E-MAIL	
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BFS-40 (Rev 1/07)

Distribution: Architect, BFS Central/Field Office, BHS/DHS/DOC/DOE, Facility, Local Fire Department

- room is not fire stopped. 11-3.1
14. Observed a drop leg door holder on the corridor door to the Gymnasium. 11-3.6.1
  15. Observed a railing is missing from the Gym, south stairway. 11-2.2.3, 5-2.2
  16. Observed all the Gymnasium exit signs were damaged, broken or inoperative. 11-2.10, 5-10
  17. Observed exposed wiring in a junction box in the Main office storage room. 2-2
  18. Observed the emergency escape window in classroom 112 is difficult to open. 11-2.11.1
  19. The room across from classroom 112 is used for storage of combustibles, is not equipped with a fire rated frame or door. 11-3.2
  20. Observed wood paneling installed on the walls and used as a partition wall in the Assistant Principals office. It is not on a backer and the school has no interior finish data. 11-3.3, 6-5
  21. Observed the school has no interior finish data for the auditorium curtains or drapes. 11-3.3
  22. Observed storage in the stairway across from Classroom 111. 5-1.9, 5-1.3.2.3
  23. Observed the storage of boxes of papers in the fan room in the basement. 2-2, 7-2
  24. Observed no emergency lighting throughout the building. 11-2.9

**Cc:**

Jacquelyn Caldwell, Principal

Tx: (313) 852-0534

[jacquelyn.caldwell@detroitk12.org](mailto:jacquelyn.caldwell@detroitk12.org)

**INSPECTION REPORT**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**BUREAU OF FIRE SERVICES**  
**FIRE MARSHAL DIVISION**

FACILITY NAME Phoenix Academy	INSPECTION DATE 05/22/12	COUNTY Wayne	PROJECT 108136
ADDRESS 7735 Lane St.	FACILITY TYPE School	RULES/CODES 99-School	JOB/LIC/FAC. NO. N/A
CITY, STATE ZIP CODE Detroit, MI 48209	FACILITY REPRESENTATIVE Principal		INSPECTION TYPE Safety Inspection
FACILITY PHONE	PHONE 2	FACILITY FAX	

**Re: Fire Safety Inspection**

A school fire safety inspection was completed this date. The following deficiencies were noted during this inspection:

- Observed emergency light at room 308B is damaged. 11-2.9
- Observed that the sprinkler head in room 308A is painted. 7-7
- Observed that the sprinkler head in the janitor's closet next to room 308B is painted. 7-7
- Observed the door to the janitor's closet next to room 308B does not have a closer and is not self-latching. 5-2.1.8
- Observed that the door to the auditorium mezzanine does not have a closer. 5-2.1.8.
- Observed that the exit sign at room 305 is damaged. 5-10
- Observed that the Auditorium storage rooms are not rated, sprinkler protected and does not self-close and latch. 26-3.2.1
- Observed that the exit door from the auditorium mezzanine to egress stairwell does not fully close and latch. 11-3
- Observed that the exit sign at stairwell across from room 303 is damaged. 5-10
- Observed that the sprinklers in the 2<sup>nd</sup> floor office restroom are painted. 7-7

FIRE SAFETY CERTIFICATION	PROJECT STATUS	REVIEWED BY Mick Dingman
INSPECTING OFFICIAL Larry DeWachter, Fire Marshal Inspector	ADDRESS	525 W. Allegan Street, 4th Floor Lansing, MI 48933
SIGNATURE OF OFFICIAL <i>Larry DeWachter</i>	TELEPHONE	248-888-8761
	FAX	517-335-4061
	E-MAIL	dewachterL@michigan.gov
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- **Fire alarm pull stations have metal enclosures with a glass front, but no striking tool. 7-6**
- **The 2<sup>nd</sup> floor auditorium egress doors are accordion style, which only allows one leaf to open without releasing additional slide bolt latches. The single leaf does not meet the minimum door width requirements due to occupancy load. Also, these doors are not reasonably smoke tight. 11-2.2.2.2**
- **Observed the 2<sup>nd</sup> & 3<sup>rd</sup> floor stage storage closets are not self-closing and latching. 5-2.1.8**
- **Observed that the fire extinguisher's cabinets have glass fronts, but no strike tool. NFPA 10.**
- **Observed the fire sprinkler in janitor's closet 210B is painted. 7-7**
- **Observed that the door to janitor's closet 210B does not self-close and latch. 5-2.1.8**
- **Observed the doors to stairwell 4, second floor do not fully close and latch. 5-2.1.8**
- **Observed several extension cords in classroom 214 being used in lieu of permanent wiring. Rule 7-29.1907**
- **Observed that the 1<sup>st</sup> floor janitor's closets and storage rooms not sprinkler protected or properly separated. 26-3.2.1**
- **Observed that the sprinkler head in the 1<sup>st</sup> floor "Old Custodial" room was painted. 7-7**
- **Observed that the closer for the "Old Custodial" closet door was removed. 5-2.1.8**
- **Observed several upright style sprinkler heads in room 106 installed in the pendent position. 7-7**
- **Observed several sprinkler heads in room 106 are painted. 7-7**
- **Observed several extension cords in classroom 106 being used in lieu of permanent wiring. Rule 7-29.1907**
- **Observed an open flammable liquid container in the 1<sup>st</sup> floor server/ storage room. (Note: Item was removed at time of inspection). 2-2**
- **Observed exposed wiring on the front of the drinking fountain at room 212. Rule 7-29.1907**
- **Observed large unsealed wall penetrations in corridor above lockers, at boy's bathroom. 11-3**
- **Observed that there is no exit sign at stairwell 3, 1<sup>st</sup> floor. 5-10**
- **Observed that the doors to stairwell 3, 1<sup>st</sup> floor do not latch. 11-3**
- **Observed numerous unsealed wall penetrations throughout the entire 1<sup>st</sup> floor. 11-3.2**
- **Observed combustibles being stored under stairwell 3. 5-2.2.5.3**

- Observed that the door to fan room has unsealed penetrations. 11-3
- Observed that fan room 3 is not sprinkler protected or properly separated. 26-3.2.1
- Observed that the sprinkler heads in classroom 104 are painted/ and or taped. 7-7
- Observed that the closer to the 1<sup>st</sup> floor custodial closet door, at girl's bathroom, is missing. 5-2.1.8
- Was unable to access storage room in classroom 104 to confirm compliance.
- Observed combustibles being stored under stairwell 3. 5-2.2.5.3
- Observed unsealed wall penetrations above door to stairwell 3. 11-3
- Observed that the doors to stairwell 3 do not latch. 11-3
- NOTE: It was observed that more than 50% of the 1<sup>st</sup> floor is below grade. After inspection it was found that only the classrooms and hazard rooms were sprinkler protected. Egress corridors contain numerous unsealed penetrations and are not sprinkler protected.
- Observed storage room exceeds 100 square feet and is not sprinkler protected. 26-3.2.1
- NOTE: It was observed that only two of the stairwells in this three story building are enclosed and none have latching hardware. 5-2.2.5.1
- Observed that the rear exit corridor is 6' wide. However, in the middle of this hall it narrows and students must pass through a 32" opening. 11-2.3.2.1

**NEW ADDITION:**

- Observed there are no directional exit signs in the breezeway separating the existing building from the addition. 10-2.10
- Observed that the doors in the 2-hour wall separating the existing building from the addition do not latch. 11-3
- Observed that the custodial storage room in the loading dock is not sprinkler protected. 7-7
- Observed that the sprinkler heads in the kitchen are painted and/ or corroded. 7-7
- Observed that the door closer to the return air room at the stage is disconnected. 5-2.1.8
- Observed storage blocking the egress corridor and exit door from the stage. 2-2
- Observed that the exit door separating the stage and corridor does not self-latch. 2-2
- Observed that the glass in all of the gymnasium doors is missing. 11-3.6.1

- **Observed that the gymnasium has no emergency lights. 5-9**
- **Observed multiple unsealed penetrations and missing ceiling tile in the dock electrical room. 2-2**
- **Extension cords for metal detectors are being used in lieu of permanent wiring and also pose a trip hazard. 7-29.1907**
- **Observed that the door to the custodial closet, at the cafeteria, has several unsealed penetrations. 11-3**
- **Observed that the door to the custodial closet, at the cafeteria does not self-close and latch. 5-2.1.8**
- **Observed missing ceiling tile in the custodial closet, at the cafeteria. 2-2**
- **Observed that the storage room door at the boy's locker room does not self-close and latch. 5-2.1.8**

**RECORDS:**

**The facility was unable to provide inspection and testing records for the following systems:**

- **Fire extinguishers (Last inspected 2010)**
- **Fire Alarm system (Last inspected 2010)**
- **Sprinkler system (Last inspected 2009)**
- **Emergency lights**
- **Fire and tornado safety drills.**

\*\*\*\*\***END OF REPORT**\*\*\*\*\*

# Education Achievement Authority of Michigan

Equity. Choice. Reinvention.

**RESOLUTION 2012-49**  
**APPROVAL OF AMENDMENT NO. 1 TO CONTRACT WITH ARAMARK MANAGEMENT SERVICES FOR THE EMERGENCY BUILDING CODE COMPLIANCE UPGRADES**

The Executive Committee of the Education Achievement Authority resolves:

1. It is the duty and responsibility of the EAA to provide a safe and secure learning environment for the students who attend schools within the District;
2. The EAA requested inspections by the State of Michigan, Department of Licensing and Regulatory Affairs, Bureau of Fire Services, Fire Marshall Division to determine the condition and safety of the facilities that the EAA would be assuming control over;
3. The inspections of the State of Michigan identified numerous fire safety violations that directly impact the health, safety, and welfare of EAA students and staff;
4. The aforementioned violations and general conditions of the facilities present a state of emergency which must be addressed within a short time frame;
5. The proposed contract with Aramark Management Services, LP ("Aramark") is sufficiently narrow in scope and duration to effectively address the emergency conditions and allow the EAA to provide a safe and secure learning environment in which to conduct public education activities;
6. That the attached Amendment No. 1 to the Custodial, Grounds, Facility Maintenance, Waste Management and Pest Control Services Contract with Aramark to provide work related to the building readiness and code violation remediation, for the EAA of Michigan is approved by the Executive Committee of the Authority as the governing body of the Authority, subject to further negotiations and/or agreements between the parties;
7. That the Chancellor of the Authority is authorized to execute the Contract Amendment No. 1 on behalf of the Authority, subject to the conditions set forth above;

8. That the Secretary of the Executive Committee of the Authority shall enter the terms of the Agreement in the minutes of the proceedings of the Executive Committee of the Authority.

*Certification:*

I certify that this resolution was duly adopted by the Executive Committee of the Education Achievement Authority at a properly-noticed open meeting held with a quorum present on the \_\_\_\_ day of \_\_\_\_\_.

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

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

  
\_\_\_\_\_  
Legal Counsel  
Approved as to Form



EDUCATION ACHIEVEMENT AUTHORITY of Michigan  
**EMERGENCY JUSTIFICATION FORM**

**THIS FORM MUST BE COMPLETED AND APPROVED PRIOR TO ANY PROCUREMENT**

**Purchase Order No.:** \_\_\_\_\_ **Amount:** not to exceed \$1.7 million

**Vendor Name:** Aramark Management Services, LP

**Contact Information:** Moses Wilson (313) 506-8159  
Name Telephone Number

Describe the specific nature of the emergency justification for the selections of the vendor. Describe the items/services purchased, dates, costs, delivery timeframe, etc. Attach any cost comparisons, quotations, or other pertinent information: (use additional sheet if necessary)

Pursuant to MCL 380.1267 (1), this contract is being entered into based on the existence of an emergency situation that affects the life, health, safety, and general welfare of the students of the EAA. The facts that caused this emergency were an unforeseen occurrence related to the safety of the conditions of the buildings in which students are to attend classes as revealed in safety inspections of the individual facilities. These facts were not able to be reasonably remedied prior to the EAA obtaining possession of the facilities on July 1, 2012, and resulted in an exceptionally limited timeframe to make the necessary repairs prior to the commencement of the school year, thus affecting the health, safety, and welfare of students and staff of the district. The scope of this contract is limited to the necessary engineering assessments, construction, upgrades and repairs to ensure a safe and otherwise habitable environment for the students and employees of the EAA of Michigan to safely occupy the facilities upon commencement of the school year. The majority of services required under this contract shall be completed no later than September 4, 2012.

**Emergency Justification Forms must be signed by Department/Division Head Prior to Submission to the Business & Finance Department.**

Department/Division Head: Contract Price: \_\_\_\_\_

Department Head Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Deputy Chancellor, Business/Fiscal & Operation Signature: \_\_\_\_\_

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

**AMENDMENT NO. 1 TO  
CUSTODIAL, GROUNDS, FACILITY MAINTENANCE, WASTE MANAGEMENT  
AND PEST CONTROL SERVICES CONTRACT**

This **AMENDMENT NO. 1** ("Amendment") to the **CUSTODIAL, GROUNDS, FACILITY MAINTENANCE, WASTE MANAGEMENT AND PEST CONTROL SERVICES CONTRACT** (the "Contract") is entered into as of the 23<sup>rd</sup> day of July, 2012 (the "Effective Date") by and between the **EDUCATION ACHIEVEMENT AUTHORITY OF MICHIGAN** (the "Authority") and **ARAMARK MANAGEMENT SERVICES LIMITED PARTNERSHIP** (the "Contractor"). Capitalized terms used, but not otherwise defined, in this Amendment shall have the meaning set forth in the Contract.

**Recitals**

**A.** The Parties entered into a Custodial, Grounds, Facility Maintenance, Waste Management and Pest Control Services Contract effective as of July 1, 2012 (the "Contract").

**B.** In connection with the Authority's request that ARAMARK help prepare the Authority's buildings for the opening of the Authority for school, the Parties hereby desire to amend the Contract as hereinafter set forth.

**NOW THEREFORE**, in consideration of the foregoing and the mutual covenants set forth herein, the Parties agree, pursuant to Section XV.G of the Contract, to amend the Contract as follows:

- I. PRICING AND PAYMENT TERMS.** Section V.B of the Contract provides that ARAMARK may provide certain additional services for the Authority at a price to be mutually negotiated. The Parties hereby agree that ARAMARK shall provide services to assist in getting the Authority buildings ready for the opening of school ("Building Readiness Services"). The Authority acknowledges and agrees that ARAMARK may subcontract certain Building Readiness Services. The Authority agrees to: (i) reimburse ARAMARK for its reasonable costs and expenses incurred in performing the Building Readiness Services to the extent ARAMARK performs the services itself (collectively "ARAMARK's Direct Costs") and to reimburse ARAMARK for the payments ARAMARK makes to its subcontractors to the extent ARAMARK subcontracts the Building Readiness Services (collectively "ARAMARK's Subcontractor Costs" and together with ARAMARK's Direct Costs, "ARAMARK's Costs"); and (ii) pay ARAMARK ten percent (10%) of the aggregate amount of ARAMARK's Costs (the "Fee") for overseeing and managing the Building Readiness Services performed by ARAMARK or its subcontractors. The Parties understand the emergency nature of the work to be performed under this Amendment No. 1, and hereby agree that ARAMARK shall be compensated according to the terms of this Amendment for work performed in the event the Authority Board does not approve this Amendment at the next scheduled Board Meeting.

**II. SCOPE OF BUILDING READINESS SERVICES.** The Authority or the architectural firm hired by the Authority shall direct ARAMARK to undertake certain projects which comprise the Building Readiness Services. Prior to the commencement of such project, ARAMARK shall provide the Authority with quotes for the estimated price of the respective project and the Authority shall approve such work in writing in advance.

**III. COMPLIANCE WITH LAWS AND AUTHORITY POLICIES**

- A. **Public Bid Laws.** The Authority represents, warrants, and acknowledges that the work performed under this Amendment constitutes emergency repair work under MI MCL §380.1267(1) and therefore is not required to be publicly bid.
- B. **Prevailing Wage Laws.** The Authority represents, warrants, and acknowledges that the work performed under this Amendment is not subject to Michigan's Prevailing Wage Act (MCL 408.551 *et seq.*). To the extent permitted by law, the Authority agrees to indemnify ARAMARK and its subsidiaries and affiliated companies, subcontractors, and their respective directors, officers, partners, members, shareholders and employees (collectively, "P.W. Indemnified Parties"), and hold them harmless from any third party liability (including reasonable attorneys' fees and court costs) in the event and to the extent a P.W. Indemnified Party is determined to be liable for the non-payment of prevailing wages.

**IV. MISCELLANEOUS.**

- A. **General Provisions.** This Amendment may be signed in original or by portable document format (PDF) in any number of counterparts, each of which shall be deemed to be an original, and together the counterparts shall constitute one complete document. In the event of any conflict between the terms of this Amendment and the Contract, this Amendment shall prevail. All other terms, conditions, obligations and agreements in the Contract shall remain in full force and effect and without any change due to this Amendment.
- B. **Authority.** Each Party represents and warrants that it has the requisite authority to enter into this Amendment and to perform its duties hereunder, that the individual signing below on that Party's behalf has all requisite authority and approvals to do so and to bind that Party, and that it has done and will do all things necessary so that this Amendment will be valid, binding, and legally enforceable upon that respective Party.

**WHEREAS**, the Parties have executed this Amendment to the Contract as of the Effective Date.

**EDUCATION ACHIEVEMENT  
AUTHORITY OF MICHIGAN**

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

Its: \_\_\_\_\_

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

**ARAMARK MANAGEMENT SERVICES  
LIMITED PARTNERSHIP**

By: ARAMARK SMMS LLC

Its: General Partner

By:   
Brian Pressler

Its: Vice President and CFO

Date: 8-1-12

# EAA BUILDING READINESS PROJECTS - BUDGET SUMMARY AS OF AUGUST 2, 2012

ARAMARK Fire Marshall Work (as described on following tabs; items crossed out on following tabs are not included b/c such work is not to be performed by ARAMARK):

TOTAL	\$1,035,450
CONTINGENCY	\$103,545
ARAMARK FEE	\$103,545
<b>GRAND TOTAL</b>	<b>\$1,242,540</b>

## Other Building Readiness Projects Requested as of August 2, 2012

<u>Project</u>	<u>Total</u>	<u>With Contingency</u>	<u>With ARAMARK Fee</u>	<u>Total</u>
Rekey Exterior Doors				\$13,210
<b>ReKey Interior Doors</b>				\$216,000
Painting Pershing	\$180,000	\$18,000	\$18,000	\$240,000
Plumbing	\$200,000	\$20,000	\$20,000	\$47,484
Replic Vandalized Clsrms Drs at Central				

Need go through bldgs w/ principals; need put key system in place for whole District first

\$18,000

\$20,000

**GRAND TOTAL ESTIMATED NOT TO EXCEED AMOUNT FOR FIRE MARSHALL AND OTHER BLDG READINESS WORK LISTED ABOVE IN BOLD BLACK (RED ITEM & ITEMS NOT SPECIFICALLY SET FORTH ABOVE ARE EXCLUDED):**

\$1,759,234