



NOTICE OF SPECIAL VILLAGE BOARD MEETING

Monday, November 1, 2021 at 5:00 p.m.
Caledonia Village Hall – 5043 Chester Lane
***Amended**

1. Call to Order
2. The **VILLAGE BOARD** will take up motions to go into **CLOSED SESSION** pursuant to s. 19.85(1)(g), Wis. Stat. conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it may become involved, specifically as it relates to the proposed Dollar General at 4949 Erie Street.
3. The VILLAGE BOARD reserves the right to go back into OPEN SESSION, and possibly take action on the items discussed during the closed session.
4. **Resolution 2021- 114** – A Resolution Of The Village Board Of The Village Of Caledonia To Authorize A Service Contract For Construction Manager At Risk With Riley Construction For The New Public Safety Building And To Authorize Expenditure Of Funds And Execution Of Documents
5. Appointment(s) to the Community Development Authority
6. Adjournment

Dated October 29, 2021

Joslyn Hoeffert
Village Clerk

RESOLUTION NO. 2021-114

**A RESOLUTION OF THE VILLAGE BOARD OF THE VILLAGE OF CALEDONIA
TO AUTHORIZE A SERVICE CONTRACT FOR CONSTRUCTION MANAGER AT
RISK WITH RILEY CONSTRUCTION FOR THE NEW PUBLIC SAFETY BUILDING
AND TO AUTHORIZE EXPENDITURE OF FUNDS AND EXECUTION OF
DOCUMENTS**

The Village Board for the Village of Caledonia resolves as follows:

WHEREAS, the Village staff and officials have determined that the Police portion of the current Public Safety Building located at 6900 Nicholson Road and Fire Station #12 located at 6040 Douglas Avenue in the Village are obsolete buildings which need to be vacated and replaced with a new public safety facility for police, fire administration and fire station (“New Facility”);

WHEREAS, after reviewing and evaluating proposals from interested firms for Construction Manager at Risk, staff recommends to the Village Board to hire Riley Construction as the Construction Manager at Risk for the New Facility;

WHEREAS, the Public Safety Committee and staff has discussed the best method through which to construct the new facility which has an estimated cost of \$21 million would be to issue a Request for Proposals utilizing Construction Manager at Risk / Guaranteed Maximum Price methodology that includes the public bidding of the component project parts;

NOW, THEREFORE, BE IT RESOLVED, the New Facility is authorized to go forward pursuant to the following terms and conditions:

1. That the total budget for the New Facility is estimated to be \$21 Million unless otherwise authorized by the Village Board.
2. That an agreement with Riley Construction for Construction Manager as Constructor at Risk providing for a construction manager's fee not to exceed 1.95% of the Cost of the Work as described in the draft agreement for Construction Manager at Risk services as set forth in **Exhibit A** is authorized and approved subject to the final form of agreement being reviewed and approved by the Village Administrator and Village Attorney (the "CMR Agreement"). This construction manager's fee is included in the \$21 million estimated total project cost.
4. That the Finance Director shall establish a separate fund for said New Facility and that the funds for this project shall come from a borrowing which shall be authorized pursuant to separate resolutions to be presented to the Village Board at a later date.
5. That no actual construction shall proceed without further Village Board approval after the Village Board has reviewed and approved the following (1) the bids received and the award of the contracts for the work on the New Facility shall be in accordance with Wisconsin’s public bidding requirements; (2) an amendment to the CMR Agreement to set the Guaranteed Maximum Price as that term is defined in the CMR Agreement;

and (3) confirmation of final not to exceed budget by the Village Board.

NOW, BE IT FURTHER RESOLVED that the Village President, the Village Clerk and the Village Administrator are authorized to execute any contracts, agreements or other documents necessary to carry out the intent of this resolution and the Village Administrator is authorized to take such actions and make such decisions necessary to carry out the intent of this resolution.

Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this _____ day of November, 2021.

VILLAGE OF CALEDONIA

By: _____
Lee Wishau
Village Trustee

Attest: _____
Joslyn Hoeffert
Village Clerk



PROPOSAL FOR CONSTRUCTION MANAGER AT RISK SERVICES

VILLAGE OF CALEDONIA PUBLIC SAFETY FACILITY

Racine County, WI | October 14th, 2021



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5.01

PROPOSAL FOR CONSTRUCTION
MANAGER SERVICES

COVER LETTER



VILLAGE OF SKOKIE POLICE DEPARTMENT HEADQUARTERS

Skokie, IL





October 14, 2021

Kathy Kasper, Administrator
Village of Caledonia
5043 Chester Lane
Racine, WI 53402

Re: Construction Manager at Risk Services for the Construction of a new Public Safety Facility

Dear Ms. Kasper:

Thank you for the opportunity to propose our services to the Village of Caledonia. Below are just some of the strengths that differentiate our firm and make us the best choice for this project.

Our proposed team has extensive public project experience. Superintendent Mike Altreuther has over 36 years of construction experience, including \$90M of work in the municipal sector. Senior Project Manager Chad Parker boasts 12 years of experience and has over \$61M of public sector jobs on his resume. Additionally, the two have previously teamed up together on several of Riley's successful municipal jobs, including the Kenosha County Public Safety Building and the Village of Pleasant Prairie Public Works Facility.

Our municipal experience is unmatched. In the last 10 years, Riley has completed over \$130 million and 700,000 SF of renovation and new construction work in the municipal market. Our new police stations in Arlington Heights and St. Charles, IL both won 2020 Project of the Year awards from the American Public Works Association.

We're "Large enough to Serve You, but Small Enough to Know You." Riley has the resources and technology to handle large, complex jobs. We also employ the largest field force in the region. However, we're committed to maintaining the personal relationships and hands-on management that our customers have come to expect.

Local resources mean quick response & preferred pricing. With headquarters in Kenosha and over 70% of our workforce residing in the Racine/Kenosha area, we respond to service calls at a moment's notice. Additionally, our deep relationships with local subcontractors and material suppliers bring the best pricing in the region.

Our Lean project approach is proven to deliver value and reliable results. Our comprehensive InSTEP® method of project delivery customizes Lean's most effective principles to fit the unique needs of the construction process. Risk reduction, waste elimination, and the drive for continuous improvement are embedded throughout the preconstruction and construction phases.

Riley Construction is committed to exceed your expectations. Humility, Integrity, Flexibility and Initiative (HIFI) are the core values and principles that enrich our business and is evidenced in the relationships we've developed. We are proud to say that **80% of our work comes from repeat customers.**

We would greatly appreciate the opportunity to work with you. Please don't hesitate to contact me at 262-658-4381 (office), 262-620-2381 (cell), or erina@rileycon.com if you have any questions regarding our proposal or if there is anything else with which Riley Construction can assist.

Sincerely,

RILEY CONSTRUCTION COMPANY, INC.

Erin Anderson
VP of Project Management and Project Executive

KENOSHA
5301 99th Avenue
Kenosha, WI 53144

P (262) 658.4381
F (262) 658.0312
rileycon.com

Let us make
your job easier.™
MILWAUKEE • KENOSHA • CHICAGO

5.02

PROPOSAL FOR CONSTRUCTION
MANAGER SERVICES

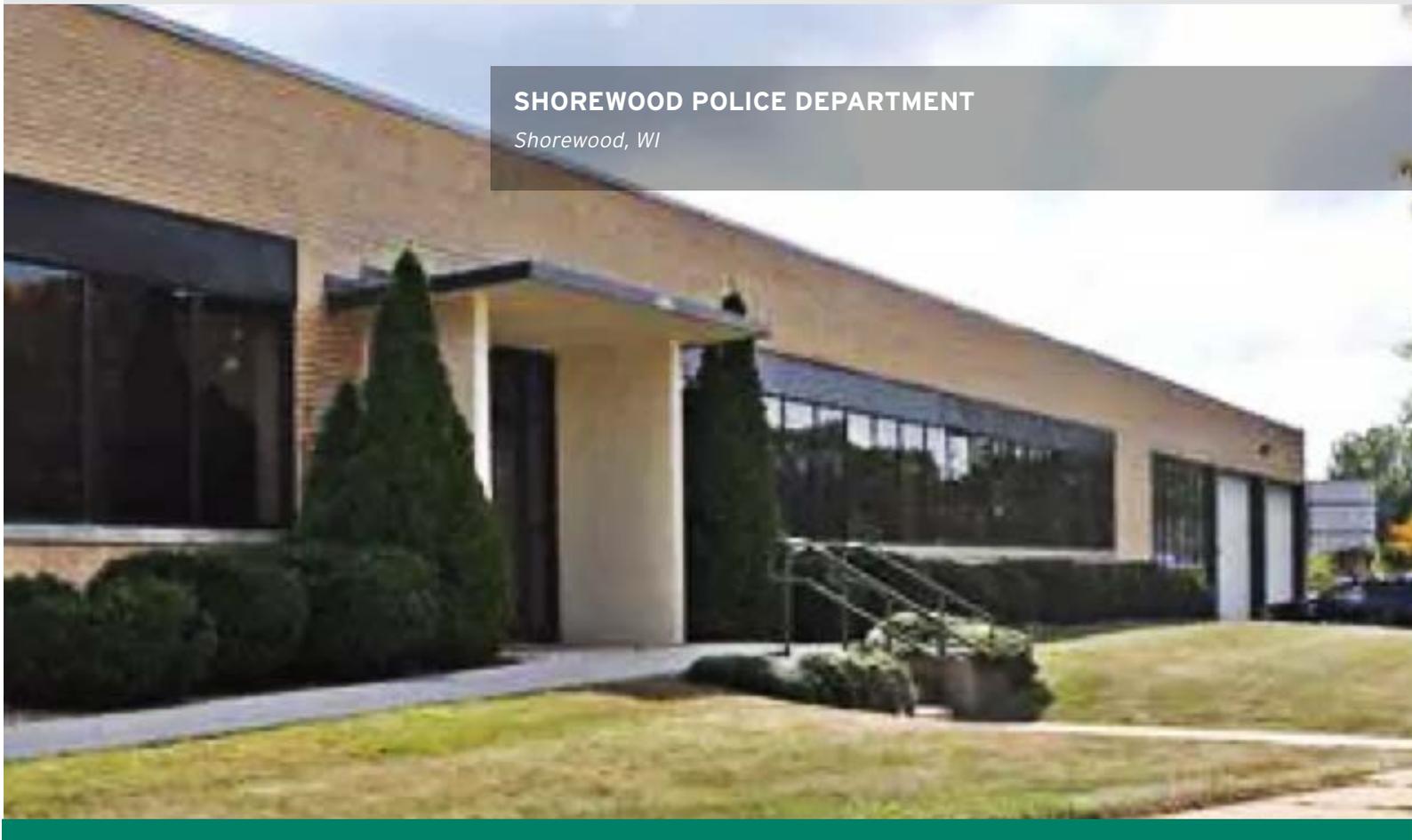
PROPOSER IDENTITY AND STRUCTURE

5.02



SHOREWOOD POLICE DEPARTMENT

Shorewood, WI



5.02 PROPOSER IDENTITY & STRUCTURE

“Riley Construction brought a true collaborative approach, working together as a team with the City and architect. Riley’s cost saving efforts in the preconstruction phase was key to remaining on budget. Their project manager and superintendent were very detail-oriented, which gave us high quality in all aspects of the project.”

Tom Naatz, City of Lake Forest Public Works Director



Founded in 1965, Riley Construction Company, Inc. is a regional construction corporation with over 200 employees, and offices strategically located to serve local communities and markets throughout the Chicago-Milwaukee corridor. 56 years later, second generation family owners continue to maintain the strong family culture from which they were raised.

As one of the largest construction firms in Wisconsin and Illinois, Riley Construction serves clients in the municipal, education, biopharmaceutical, healthcare, corporate/commercial, and industrial/manufacturing markets. Services include preconstruction, construction management, general contracting and design/build for new, expansion, renovation and restoration projects.

COMPANY ANNUAL VOLUME

With annual construction management volumes over \$250 million, the Riley staff has honed their skills in terms of experience, knowledge and quality performance.

FINANCIAL STABILITY

Long-term, debt-free has been the status of Riley Construction for its entire existence. This has allowed the company to secure a \$3 million revolving line of credit from Johnson Bank however we have not needed to utilize it.

BONDING CAPACITY

Riley Construction's bonding company is Liberty Mutual Insurance Company. Liberty Mutual is an "A" (Excellent) A.M. Best rated insurance company. Riley maintains strong relationships with its bonding companies and has never been denied a bond.

QUALITY STAFF, QUALITY CONSTRUCTION

We have enriched the Riley staff in terms of experience, knowledge, customer service and quality performance. Our clients have come to know and expect the quality our staff provides. That's why **more than 80% of our business comes from existing customers!**

STAFF RESOURCES

Riley Construction employs a top-quality professional staff that focuses on the clients needs. Our 60 professional/technical and 150+ trade resources include:

- Construction Executives
- Project Management
- Engineering Support
- MEP/FP Management
- Lean/Quality Control Management
- Safety Management
- Administrative Services
- Field Superintendents/Support
- Field Tradesmen including Masons, Cement Finishers, Carpenters, Drywallers and Laborers

EQUAL OPPORTUNITY EMPLOYER

Riley Construction is an equal opportunity employer, committed to providing opportunities for employment and advancement to all people regardless of their race, age, sex, color, religion, national origin, veteran status or handicap which is unrelated to their ability to perform the job. Riley complies with applicable state and local laws governing non-discrimination in employment in every location in which the company has offices or operations.



**We don't strive to be the
biggest construction company,
only the BEST.**



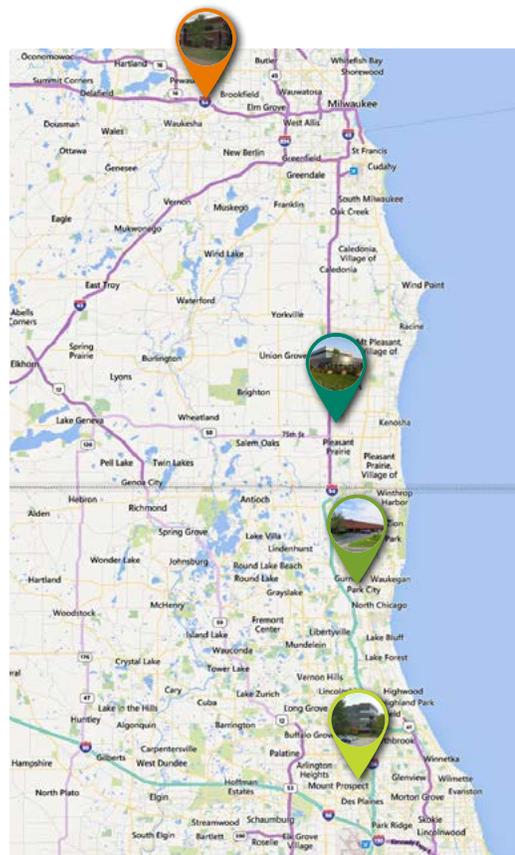
LOCATIONS

MILWAUKEE
 N19 W23993 Ridgeview
 Parkway
 Suite 150
 Waukesha, WI 53188
 (414) 359-0100

KENOSHA
 5301 99th Avenue
 Kenosha, WI 53144
 (262) 658-4381

CHICAGO
 1661 Feehanville Drive #430
 Mount Prospect, IL 60056
 (224) 580-2400

WAUKEGAN
 1032 S. Northpoint Blvd
 Waukegan, IL 60085
 (847) 457-3909
 rileycon.com



OUR IN-HOUSE SERVICES:

SERVICES

- Preconstruction Services
- Construction Management
- General Construction
- Design/Build
- Trades—Demolition, Concrete, Masonry, Carpentry and Drywall

PRECONSTRUCTION PHASE

- Estimating
- Constructability Analysis
- Collaborative Value-Added Analysis
- Construction Scheduling
- Site Analysis
- Procurement
- Building Information Modeling (3D/4D)
- LEED Consultation and Evaluation
- Integrated Project Delivery

CONSTRUCTION PHASE

- Project Management
- Production Management
- Construction Scheduling
- Cost Control
- Document Control
- Safety Management
- Lean/Quality Control
- Change Management
- Project Close-out
- Commissioning
- LEED Documentation and Submission

SELF-PERFORMED WORK

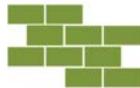
Riley self-performs masonry, concrete, carpentry, drywall, and demolition, which translates into better schedule, quality & production control.



Demolition



Concrete



Masonry



Carpentry



Drywall

HIFI CORE VALUES

Our core values of Humility, Integrity, Flexibility, and Initiative (HIFI) keep clients coming back. We demonstrate to our customers that we are focused on quality, and committed to the success of their project.

HUMILITY

We show that through humility great things are possible.

INTEGRITY

We believe integrity isn't some badge of honor – it's just honor.

FLEXIBILITY

As people grow and times change, flexibility keeps us ahead.

INITIATIVE

Initiative isn't waiting for results - it's driving them.

AWARDS WON IN LAST 3 YEARS

2021

- Daily Reporter Hard Hat Safety Award
- BizTimes Media Rising Star in Banking & Finance: Vince Montemurro, Controller

2020

- American Public Works Association (APWA) Chicago Metro Chapter - Fox Valley Branch, Project of the Year: St. Charles Police Station
- American Public Works Association (APWA), National Project of the Year: Arlington Heights Police Department
- American Public Works Association (APWA), Chicago Metro Chapter Project of the Year: Arlington Heights Police Department
- CISCO Project of the Year: St. Charles Police Station
- Great Lakes Construction Association Safety Achievement Award
- Midwest Real Estate News Magazine, "Best of the Best" Top Construction Companies
- Milwaukee Journal Sentinel, Top Work Places in Southeastern Wisconsin
- Summit Insurance Ltd. Safety and Risk Excellence Award
- The Daily Reporter Women In Construction Award: Erin Anderson, Vice President of Project Management
- Associated General Contractors Safety Excellence Award

2019

- Great Lakes Construction Association Project of the Year APEX Award: Broadview Municipal Building Addition & Renovation
- Associated General Contractors of Wisconsin, Build Wisconsin Award: InSinkErator Corporate Headquarters
- ENR Midwest, Best Project Award of Merit: InSinkErator Corporate Headquarters
- International Society for Pharmaceutical Engineering (ISPE), Facility of the Year Honorable Mention: AveXis (now Novartis) Next Generation Manufacturing Facility
- The Daily Reporter Top Project Award: Milwaukee Tool Headquarters Expansion
- The Daily Reporter Top Project Award: Froedtert Pleasant Prairie Hospital Surgery Expansion
- Associated General Contractors Safety Excellence Award
- Great Lakes Construction Association Safety Achievement Award - Lowest Workday Ratio, Division IV
- Summit Insurance Ltd. Safety and Risk Excellence Award
- Milwaukee Journal Sentinel, Top Work Places in Southeastern Wisconsin
- Midwest Real Estate News Magazine, "Best of the Best" Top Construction Companies
- Milwaukee Business Journal, Fastest Growing Firms Award

PROFESSIONAL ORGANIZATIONS

Associated General Contractors (AGC)
LEED (Leadership in Energy and Environmental Design)
American Society of Professional Estimators (ASPE)
NAIOP (Commercial Real Estate Development Association)
Commercial Association of Realtors WI (CARW)
International Facility Management Association (IFMA)
American Society of Civil Engineers (ASCE)
ASHAE (American Society of Heating, Refrigerating and Air-Conditioning Engineers)

BioForward Wisconsin
Metropolitan Milwaukee Association of Commerce (MMAC)
Wisconsin Healthcare Engineering Association (WHEA)
Kenosha Area Business Association (KABA)
Racine Area Manufacturers and Commers (RAMAC)
Racine County Economic Development Corporation (RCEDC)
Great Lakes Construction Association (GLCA)
Wisconsin Manufacturers Commerce (WMC)

5.03

PROPOSAL FOR CONSTRUCTION
MANAGER SERVICES

EXPERIENCE AND REFERENCES

5.03



ORLAND PARK FIRE PROTECTION DISTRICT
Orland Park, IL



5.03

EXPERIENCE AND REFERENCES

Riley Construction performs between 80-90% of all work as CM @ Risk.

Our 10-Year average is 83%.

Today's public safety departments must respond to the evolving and complex needs of the municipality and law enforcement personnel. A carefully designed facility not only supports the community, it enhances it. Interior and exterior spaces and elements must be functional, aesthetically pleasing and energy-efficient to address the immediate and future needs of occupants and the community.

Riley Construction has successfully completed numerous public safety and public works projects. Our experienced team has proven to deliver top-quality new construction, renovation, and addition projects on time and within budget.

Projects completed within the last 5 years as CM @ Risk (contracts over \$100k)

| Project Name | Public/Private | Project Name | Public/Private |
|---|----------------|--|----------------|
| Abbott Labs AP-13 Dermatology Renovation | Private | Ascension Franklin PT Pool | Private |
| Abbott Labs AP34 CHHR Restack Phase 1 | Private | Ascension GIA - Mount Pleasant | Private |
| Abbott Labs R10 Elagolix | Private | Ascension Oak Creek Clinic | Private |
| Aqua Plex Building Envelope Remedial Work | Public | Ascension Pharmacy - All Saints (GC's & Subs) | Private |
| Arlington Heights New Police Station | Public | Ascension Pharmacy - All Saints (Trades) | Private |
| Ascension - All Saints Lobby Renovation (Trades) | Private | Ascension Pharmacy Renovation - Franklin | Private |
| Ascension - All Saints Lobby Renovation(GC/Sub) | Private | Ascension Pharmacy Renovation - SJOC GC's & Subs | Private |
| Ascension - AS AMG Refresh (GC/Sub) | Private | Ascension Pharmacy Renovation - SJOC Riley Trades | Private |
| Ascension - Franklin Cardiology (GC's & Subs) | Private | Ascension Pharmacy Renovation - St. Joe's 8th Floor GC & Sub | Private |
| Ascension - Franklin Cardiology (Trades) | Private | Ascension Pharmacy Renovation - St. Joe's Basement GC's & Subs | Private |
| Ascension - Highway 20 Clinic & ASC - Self Performed | Private | Ascension Radiology Renovation | Private |
| Ascension -All Saints Main Flooring Replacement | Private | Ascension St. Joe's Imaging | Private |
| Ascension BD Healthy Village-Glendale (GCs & Subs) | Private | Ascension Urgent Care Hartland GC's and Subs | Private |
| Ascension BD Healthy Village-Glendale (Trades) | Private | AveXis IP Expansion Demolition | Private |
| Ascension Cancer Care Center | Private | AveXis IP Warehouse Racking | Private |
| Ascension Elmbrook Memorial Hospital Cath Lab #2 | Private | AWMG Rawson Clinic Renovation | Private |
| Ascension EMH - ED and Surgery Renovations (GCs & Subs) | Private | AWMG Rawson Clinic Renovation | Private |
| Ascension EMH - ED and Surgery Renovations (Trades) | Private | BIOFAB Technologies | Private |
| Ascension EMH IR Renovation | Private | Birchwood Foods - Transport Addition | Private |
| Ascension EMH MOB Suite 303 | Private | | |

Projects completed within the last 5 years as CM @ Risk (contracts over \$100k) cont'd

| Project Name | Public/Private | Project Name | Public/Private |
|---|----------------|--|----------------|
| Birchwood WWTP Addition | Private | Gateway Gun Range (Bid Package A) | Public |
| Bradshaw Medical | Private | Gateway Gun Range Equipment | Public |
| Broadview PublicBuilding GC's Intercompany | Public | Gateway iMet Center Expansion - Building | Public |
| Broadview PublicBuilding General | Public | Gateway iMET Center Renovation | Public |
| Burlington Graphics Addition | Private | Gateway iMET Expansion and Renovation | Public |
| BWF Columbus Fajita Line Renovation | Private | Gateway iMet Parking Lot Repairs | Public |
| BWF Norcross J&M Expansion | Private | Gateway In - Service/Recruits/MAAT (Bid Package C) | Public |
| BWF Norcross Wendy's Storage Addition | Private | Gateway Site Improvements (Bid Package E) | Public |
| Carma Labs Office Refurbishment | Private | Gateway Student Commons Repairs | Public |
| Carthage Lentz Hall 4th Floor Remodel | Private | Gateway Utilities (Bid Package D) | Public |
| Crown Brands Office TI | Private | Gateway-Academic Bldg 2nd Flr ClassRM & Office Ren Project A | Public |
| CTCA Chicago - Stem Cell Process Lab & Bio Storage Room | Private | GIA-KDHC-ACC-Kenosha | Private |
| CTCA MPMC 1st Floor Staff Break Room | Private | HSA Park 94 Building 3 | Private |
| CTCA MPMC Financial Counselors | Private | HSA Park94 Building #3 Spec Office | Private |
| CTCA MPMC Infusion | Private | InSinkErator HQ | Private |
| CTCA MPMC IP Procedure Room | Private | KARE Center Tenant Improvements | Public |
| CTCA MPMC Talent | Private | KCHC Salem Lakes Clinic | Private |
| DBFPD Envelope Upgrade | Public | Kenosha County Public Safety Building | Public |
| Elmbrook Memorial Hospital EP Lab | Private | Kenosha Joint Services - Evidence Storage Renovations | Public |
| Evoqua Office Renovation | Private | Knapp Elementary School | Public |
| Froedtert CT #4 Replacement | Private | Menomonee Falls DPW Facility | Public |
| Froedtert SICU Refresh | Private | Milwaukee Tool - Phase 3 | Private |
| Froedtert South KMCC Boiler Replacement | Private | Milwaukee Tool - Red Speed - Hand Tool Lab | Private |
| Froedtert South KMCC Lobby & Entry Corridor Remodel | Private | Milwaukee Tool - Red Tag | Private |
| Froedtert South MOB | Private | Milwaukee Tool - Red Zone - Cafeteria Renovation | Private |
| Froedtert South Somers MOB - 3rd Floor Buildout | Private | Milwaukee Tool - Woodland Prime Land Clearing | Private |
| Froedtert South St. Catherine's 3rd Floor Laboratory | Private | MRMC 1991 Building Renovation | Private |
| Froedtert South St. Catherine's 4th Floor - Dr. Jandali Buildout | Private | MRMC 2016 Misc Carpentry | Private |
| Froedtert South St. Catherine's Advanced Outpatient Surgical Wing | Private | MRMC 2nd Flr RPC / 3rd Flr Pharmacy | Private |
| Froedtert South St. Catherine's IR Suite | Private | MRMC Backfill - Capital Projects | Private |
| Froedtert South St. Catherine's MRI Suite | Private | MRMC Chapel | Private |
| Gateway Academic 2nd Floor Remodel - Area D | Public | MRMC Chiller Project | Private |
| Gateway Academic 2nd Floor Remodel - Area E | Public | MRMC Lab Renovation | Private |
| Gateway Academic 2nd Floor Remodel Area C | Public | MRMC Linac & CT Simulator Upgrades | Private |
| Gateway Academic 2nd Floor Remodel Project B | Public | MRMC Open Arms Tower | Private |
| Gateway Academic Building 2nd Floor Remodel (Phase 1 and 2) | Public | Novartis 1940 BioChem Lab | Private |
| Gateway Chem/Milo/Classrooms (Bid Package B) | Public | Oconomowoc Memorial Hospital - Surgery Renovation | Private |
| Gateway EVOG Track | Public | OMH - Surgery Renovation Gen. Req. - Intercompany | Private |
| Gateway EVOG Track Expansion | Public | OMH CT Renovations | Private |
| Gateway EVOG Track Expansion | Public | OMH Day Surgery Refresh | Private |
| Gateway FY-18 Academic Classroom Renovations | Public | OMH ED Ambulance Garage Expansion | Private |
| | | OMH Surgery - Fireproofing (Intercompany) | Private |
| | | Palmen Motors Interior Renovation Kenosha | Private |

Projects completed within the last 5 years as CM @ Risk (contracts over \$100k) cont'd

| Project Name | Public/Private | Project Name | Public/Private |
|--|----------------|---|----------------|
| Palmen Racine Service Expansion | Private | Willkomm Petro Expansion | Private |
| Pfizer H1 Conference Center | Private | Willkomm Retail Development | Private |
| Pfizer H3 Cafe & Common Area | Private | Z1 at Salem Business Park - Shell Building | Private |
| Pfizer H-3 Pilot Plant | Private | Z2 at Salem Business Park - Shell Building | Private |
| PHC - OMH MRI Replacement | Private | Zilber 1 @ Germantown BP2 Core & Shell (Briggs) | Private |
| PHC - WMH Parking Structure Repairs | Private | Zilber 1 @ Germantown BP3 Office TI | Private |
| PHC Pewaukee Linear Accelerator Replacement | Private | Zilber 1 @ Germantown BP4 TI Upgrades | Private |
| PHC WMH 1E Performance Excellence | Private | Zilber BPOK 3 Trifinity TI | Private |
| PHC WMH 2 North Entry | Private | Zilber Janesville - Farm & Fleet TI | Private |
| Pheasant Ridge AMITA Renovations | Public | Zilber Private 1 @ Kenosha Corporate Park | Private |
| Potawatomi Ventilation Conversion | Private | Zilber Private 1 at Mount Pleasant Shell | Private |
| Queen Bee 2020 Additions & Renovations | Public | Zilber Private 2 @ Lilly | Private |
| Rogers Memorial Hospital-Phase II and III-Renovation | Private | Zilber Private 2 at Lakeview Corporate Park Shell Lot 115 | Private |
| RUSD - Gilmore Renovations | Public | | |
| RUSD - Horlick High School Science Wing Addition/ Renovation | Public | | |
| RUSD - REAL School | Public | | |
| RUSD Brown Elementary - GC's | Public | | |
| RUSD CPC 1st Floor Alterations | Public | | |
| RUSD Gifford - GC's | Public | | |
| RUSD Gifford Elementary Addn | Public | | |
| RUSD Gifford Elementary Interior Renovation BP#4 | Public | | |
| RUSD Knapp Elementary | Public | | |
| RUSD Olympia Brown Elementary | Public | | |
| S-20 Warehouse Upgrade | Private | | |
| SafeNet Consulting | Private | | |
| SCJ - Sam's Campus West Office - GC | Private | | |
| SCJ B301 Conference Rooms | Private | | |
| SCJ Green Tunnel Rehabilitation | Private | | |
| SCJ Howe St Redevelopment | Private | | |
| SCJ Waxdale - Propellent Charging Room Foundation | Private | | |
| SCMCC - MMB 2nd Floor | Private | | |
| Shorewood PD - Phase 2B Garage | Public | | |
| Shorewood PD Renovation - Phase 2A | Public | | |
| Snap - On Forge | Private | | |
| Snap On Warehouse Restrooms | Private | | |
| Snap-On Cafeteria Experience | Private | | |
| Snap-On Warehouse Office Buildout | Private | | |
| St. Charles Police Station - GC's-Intercompany | Public | | |
| Village of Pleasant Prairie Public Works Facility | Public | | |
| VOPP FS#1 & Village Hall - CM | Public | | |
| VOPP RecPlex Toilet Room Addition | Public | | |
| Vrakas Office Remodel | Private | | |
| Willkomm Hwy 158 Rocketwash | Private | | |
| Willkomm Hwy 50 Rocketwash | Private | | |



St. Charles New Police Station

St. Charles, IL

Riley provided pre-construction and construction management services for this new, two-story police station constructed on an open lot that previously housed a shopping center. The facility replaced an existing 100-year-old structure and accommodates modern policing activities. Existing buildings were demolished and some soil abatement was necessary prior to the construction of a new parking lot, main drive, and station. The existing drive access was reworked to improve traffic flow. Features include:

- Bullet-resistant entry with restricted public access
- Second-floor community room for public use
- Squad garage with drive-in bay for direct access to evidence/storage review room and large area for storage and seating
- Open-design office area on 1st and 2nd floors
- Accommodations for 54 sworn officers/82 total staff
- 5 detention holding cells
- 1 mass-arrest holding room
- 28 indoor squad parking spaces



2019 American Public Works Association Project of the Year Winner.

Size

Gross: 56,000 SF

Net: 53,200 SF

Project Budget

\$23,000,000

Project Fee

1.6%

Cost Information

Initial Contract Amount

\$22,765,141

Final Contract Amount

\$21,914,138

Change Order Amount

\$851,003

Savings Returned to Owner

\$1,198,934

Schedule

June 2018-September 2019

Contact

Village of St. Charles

Peter Suhr, Director of Public Works

1605 W. Main Street

St. Charles, IL 60174

(630) 377-4400

Additional Contact

FGM Architects & Engineers, Inc.

Annabella Orlando, Sr. Associate

200 West Jackson Boulevard, #1330

Chicago, IL 60606

St. Charles Police Station

Client Goals & Results

| Goal | Examples of Riley Solutions | Result |
|-------------------------|---|---|
| Cost control | <ul style="list-style-type: none"> BIM and Value Engineering used to resolve conflicts prior to construction Competitive Bidding (average of 5 bids per package) | Over \$1M in estimated savings |
| Schedule control | <ul style="list-style-type: none"> InSTEP® project approach used Lean construction techniques and Pull Plan development Early punchlists for subcontractors to catch issues prior to finishes | Substantial completion delivered 1 month early |
| Communication with City | <ul style="list-style-type: none"> Sent weekly "Fast Five" E-Newsletter to owners informing them of that week's activities and plans for following week Regular onsite OAC (Owner, Architect, Contractor) meetings followed immediately by tour of the site | Positive testimonials from Chief of Police and Director of Public Works |

Scan QR codes below to watch video testimonials from the St. Charles Police Station project:



 SCAN ME

Chief James Keegan
St. Charles Police Department
City of St. Charles



 SCAN ME

Peter Suhr
Director of Public Works
City of St. Charles



Arlington Heights Police Department

Arlington Heights, IL

Riley Construction provided preconstruction and construction management services for the new Arlington Heights Police Station and the Village Hall renovation. The new 72,656 square-foot station is a two-story building with police administration offices; fitness and locker room facilities; indoor shooting range; records storage; evidence and forensics areas; a sallyport; and booking and holding areas. Scope of services included:

- Demolition of the existing police station
- Concrete
- Site work
- Carpentry
- Structural, mechanical, electrical, plumbing & fire protection systems
- Interior finishes
- Landscaping
- Utilities
- Offsite improvements to Village Hall and renovations at the Fire Academy to create additional storage space for police records and long-term evidence storage



2019 American Public Works Association National Project of the Year Winner.

Size

Gross: 72,656 SF

Net: 69,023 SF

Project Budget

\$28,000,000

Project Fee

1.6%

Cost Information

Initial Contract Amount

\$27,984,735

Final Contract Amount

\$27,727,878

Change Order Amount

\$256,857

Savings Returned to Owner

\$0

Schedule

May 2017 - December 2018

Contact

Nick Pecora, Chief of Police
 200 East Sigwalt Street
 Arlington Heights, IL 60005
 (847) 514-3602

Arlington Heights Police Department

Client Goals & Results

| Goal | Examples of Riley Solutions | Result |
|--|---|--|
| Minimize community disruption (tight, congested site near commuter rail station) | <ul style="list-style-type: none"> Completed detailed site logistics plan for demolition, foundation, and structure phases prior to start of project Issued formal Advanced Notices prior to any activities that may affect employees or nearby residents | Village received no complaints |
| Quality | <ul style="list-style-type: none"> Proactively built and modeled the project in 3D software; models used throughout project detail of MEPs & finishes Solicited over 300 subcontractors to submit prequalification form prior to bidding, disqualifying multiple firms due to concerns over capabilities, financial strength and/or safety record | Showplace facility earned national Project of the Year award from the American Public Works Assn. (APWA) |
| Safety | <ul style="list-style-type: none"> Weekly manpower safety talks conducted by Superintendent 6-Week Safety Look-Aheads utilized | Zero lost-time injuries; 100% of safety issues mitigated within 24 hours |



Kenosha County Public Safety Building

2011 Addition / 2017 Renovation Kenosha, WI

Riley Construction provided preconstruction and construction management services for two addition/renovations at this facility. Riley built a multi-level addition in 2011, including a basement and three levels above surface adjacent to the existing structure. 14,500 SF of existing space was remodeled to match the addition.

The firm was invited back for additional work in 2017. This project consisted of two parts: conversion of a 1900's era, two-story 8,000 SF brick building to a maintenance garage; and a five-phase remodel of existing space. Remodeling included a 25,000 SF buildout of shell space for a new Emergency Management Center and Detective Bureau; a 4,000 SF renovation for the future Medical Examiner's Office & Morgue; and back-filling of space inside the Sheriff's Department and Joint Services Administration.

Size

Gross: 40,200 SF

Net: 38,190 SF

Project Budget

\$6,500,000

Project Fee

3%

Cost Information

Initial Contract Amount

\$6,572,140

Final Contract Amount

\$6,540,032

Change Order Amount

\$32,108

Savings Returned to Owner

\$144,158.22

Schedule

May 2017-March 2018

Contact

Kenosha County
 Frank Martinelli, Engineering Projects
 Manager | Division of Facilities
 19600 75th Street
 (262) 857-1863
 Bristol, WI, 53104

Kenosha County Public Safety Building Addition & Renovation

Client Goals & Results

| Goal | Examples of Riley Solutions | Result |
|--|---|--------------------------------|
| Cost control | <ul style="list-style-type: none"> Value Engineering performed during preconstruction Coordinated with architect to ensure design integrity while minimizing cost | Project delivered on budget |
| Schedule control | <ul style="list-style-type: none"> Self-performed concrete and demolition, enabling increased control over these activities InSTEP® project approach used Lean principles to develop Pull Plan schedule with phasing and milestones | All work delivered on schedule |
| Minimize disruption in occupied facility | <ul style="list-style-type: none"> Phased work to best control field crews and scheduling around vital operations 6-Week Look-Aheads used to anticipate potential disruptive activities | -+96569* |



Village of Pleasant Prairie Fire Station & Village Hall

Pleasant Prairie, WI

Riley Construction provided preconstruction and construction management services for the Village of Pleasant Prairie Village Hall & Fire Station No. 1. The new fire station includes a four apparatus bays and house up to 10 apparatus; it includes eight sleeping rooms, day room and kitchen, training room that can be used as a backup 911 call center in an emergency, hose tower and a training mezzanine that will allow the department to conduct rescue training.

The village hall renovations features the old apparatus bay being renovated into a new village board room that can be separated into two meeting rooms. Other areas of the old fire department space remodeled include a conference room for the village board closed session meetings, a larger village staff conference room, and a new village staff breakroom.

Size

Gross: 26,415 SF

Net: 25,094 SF

Project Budget

\$5,700,000

Project Fee

2%

Cost Information

Initial Contract Amount

\$5,620,941

Final Contract Amount

\$5,735,866

Change Order Amount

\$114,924

Savings Returned to Owner

\$17,493.60

Schedule

December 2013-June 2015

Contact

Village of Pleasant Prairie
Tom Schircel, Assistant Village
Administrator
9915 39th Avenue
Pleasant Prairie, WI 53158
(262) 925-6715

Village of Pleasant Prairie Fire Station & Village Hall

Client Goals & Results

| Goal | Examples of Riley Solutions | Result |
|-----------------------|--|---|
| Value/Budget Control | <ul style="list-style-type: none">• BIM used for field coordination• Value Engineering performed during design and preconstruction phases | Project delivered at initial budget |
| Quality | <ul style="list-style-type: none">• Formal QC Plan included submittal reviews, testing, inspections, daily communication with subcontractors• Pre-installation meetings were conducted for definable work activities prior to their start | Fire Chief quoted as calling the space "our station for the next 50 to 75 years." |
| Maximize use of space | <ul style="list-style-type: none">• Shortened walls in sleeping areas eliminate need for additional lighting and fire protection• Training areas built directly into functioning portions of station | Multipurpose areas eliminate need for additional square footage |



Menomonee Falls Department of Public Works

Menomonee Falls, WI

Riley Construction provided pre-construction and construction management services for the Village of Menomonee Falls Department of Public Works. This new project replaces a 60+ year old Department of Public Works facility located on the same site. Riley's self-performed trades on this project included concrete, masonry, and carpentry.

Completed in two phases, the project includes a 90,000 SF vehicle storage building, a 12,000 SF office area, and an 11,000 SF service bay. It also features a salt dome, auxiliary storage buildings and a fueling station.

Size

Gross: 150,000 SF

Net: 142,500 SF

Project Budget

\$15,000,000

Project Fee

2.5%

Cost Information

Initial Contract Amount

\$14,898,691

Final Contract Amount

\$14,809,950

Change Order Amount

\$88,740

Savings Returned to Owner

\$32,733.62

Schedule

May 2017-July 2018

Contact

Village of Menomonee Falls

Arlyn Johnson, Director of Public Works

W156N8480 Pilgrim Road
Menomonee Falls, WI 53051
(262) 532-4200

Menomonee Falls Department of Public Works

Client Goals & Results

| Goal | Examples of Riley Solutions | Result |
|-------------------------------|---|---|
| Schedule control | <ul style="list-style-type: none"> Completed work in two phases to maximize control without sacrificing quality Remained flexible to accommodate scope additions during construction phase | Project delivered on time |
| Minimize community disruption | <ul style="list-style-type: none"> Letters sent to surrounding neighborhood introducing ourselves and providing notice of upcoming construction activities Fence/screening installed around entire site perimeter | No neighbor complaints |
| Quality | <ul style="list-style-type: none"> Self-performed concrete, masonry, and carpentry, ensuring quality through Riley's increased control Formal QC plan involved Riley field team and subcontractors through all phases | Village Manager quoted as saying the new facility will "serve for the next 50 years." |



Broadview Municipal Building

Broadview, IL

Riley Construction provided pre-construction and construction management services for this project, which included an addition to the police 911 dispatch center, along with the renovation of an existing police station and village hall. The facility is located in an urban, congested area and work was completed while municipal operations continued. Riley's self-performed trades on this project included concrete, carpentry, and demolition.

Addition included:

- Dispatch (911 center) expansion
- Police staff and detective offices
- Conference rooms

Renovations included:

- Existing police facilities, including detention area
- Building department
- Village staff office
- Public works
- Chamber council board rooms



2019 Great Lakes Construction Association Apex Project of the Year

Size

Gross: 31,882 SF

Net: 30,287 SF

Project Budget

\$8,900,000

Project Fee

2.25%

Cost Information

Initial Contract Amount

\$8,890,979

Final Contract Amount

\$8,173,863

Change Order Amount

\$717,110

Savings Returned to Owner

\$575, 793

Schedule

June 2018-May 2019

Contact

Village of Broadview
 Katrina Thompson, Mayor
 2350 S 25th Avenue
 Broadview, IL 60155
 (708) 345-6550

Additional Contact

FGM Architects & Engineers, Inc.
 Annabella Orlando, Sr. Associate
 200 West Jackson Boulevard, Suite
 1330
 Chicago, IL 60606

Broadview Municipal Building

Client Goals & Results

| Goal | Examples of Riley Solutions | Result |
|---------------------------------|--|---|
| Minimize operational disruption | <ul style="list-style-type: none">Coordinated with Village and subcontractors to temporarily relocate services to other buildings, including the Library and Fire Department, during constructionIssued formal Advanced Notices prior to any activities that may affect employees or nearby residents | All services, including 911 Dispatch Center, remained fully functional during the project |
| Communication with Village | <ul style="list-style-type: none">Maintained constant communication with the client and subcontractors throughout difficult sequencing of work in an operational facilityPartnered with Village staff to coordinate gala ribbon cutting event | Client satisfaction evidenced by Mayor's testimonial. "I feel like we're a family," she said. |
| Safety | <ul style="list-style-type: none">Weekly manpower safety talks and 6-Week Safety Look-Aheads issued by SuperintendentRegular inspections by Riley Risk Management officials | Zero lost-time injuries over 350 consecutive workdays and 8,500+ man hours |

Scan QR code below to watch video testimonial from the Broadview Municipal Building project:



Major Katrina Thompson
Village of Broadview

5.04

PROPOSAL FOR CONSTRUCTION
MANAGER SERVICES

KEY PERSONNEL



DEERFIELD-BANNOCKBURN FIRE PROTECTION DISTRICT

Deerfield, IL





20 years in the Industry

ERIN ANDERSON, LEED AP

Vice President of Project Management + Project Executive

As Project Executive, Erin will provide executive overview and principal involvement throughout the entire duration of your project. She will establish and maintain a unified team that is focused on the your best interest. Erin's responsibility is to ensure Riley's high standard of quality performance is met by every team member at every phase of construction, resulting in nothing less than total client satisfaction. Erin will focus on budget, schedule, quality assurance, construction analysis, and value engineering during the preconstruction phase. During the construction phase, she will review operations continuously to ensure project goals and a timely completion are met.

EDUCATION

BS Civil Engineering, University of Minnesota

PROFESSIONAL INVOLVEMENT

Member - Kenosha Achievement Center

Member - Wisconsin Healthcare Engineers Association

CERTIFICATIONS

LEED AP

WHEA HCC Certification

SELECTED RELEVANT EXPERIENCE

Kenosha County Public Safety Building 2017 Renovation, Kenosha, WI -

The project consisted of renovations in two County facilities. The first was a major renovation of a 1900's era, two-story 8,000 SF brick building, converting it to a Fleet Maintenance Garage for city and county law enforcement. The second project was a five-phase remodel of existing space that included a 25,000 SF buildout of the 2009 addition shell space into the new Emergency Management Center and Detective Bureau; a 4,000 SF renovation for the future Medical Examiner's Office & Morgue; and back-filling of space inside the Sheriff's Department and Joint Services Administration.

Village of Pleasant Prairie Public Works Facility, Pleasant Prairie, WI - The new Public Works Storage Facility for the Village of Pleasant Prairie is a 86,400 SF square-foot, fire resistant precast building to provide indoor storage space for trucks and other equipment that are currently stored outside due to lack of space in the existing storage buildings. Snow plows, plow blades, light duty vehicles, and other seasonal and general public works equipment are to be stored in the new building; this will help protect and prolong the life of the equipment.

Horlick High School Science Wing Addition/Renovation, Racine, WI - 29,000 SF addition and renovation project that included remodeling of eight existing science labs and a two-story addition that houses four new labs. Remodeled labs were demolished to the studs and completely rebuilt. New labs had casework and finishes installed to match existing labs.

Neal Math and Science Concrete, North Chicago, IL - We are the concrete subcontractor to Bilbane Bowa JV. Excavation and waterproofing are included in our scope. The project at this 5 story building includes poured metal decks and slab on grade with footing and frost walls. We also have stair towers and a shear wall.

The R.E.A.L School (Racine Engineering, Arts, and Leadership), Sturtevant, WI - 30,000 SF adaptive reuse project that turned an existing office building into a grade 6-12 charter school that accommodates over 300 students Features include a student theater/auditorium, cafeteria, gymnasium, and faculty offices.

Gateway Technical College iMET Renovation, Sturtevant, WI - New addition to the Gateway Technical College integrated Manufacturing & Engineering Technology Center. This project provided 36,000 square feet of additional space, which is to be used for new classroom and lab space for new smart manufacturing technology. Project was completed in 8 months through the winter in order to be ready for the 2019-2020 school year.



12 years in the Industry

EDUCATION

BS Construction Management,
University of Wisconsin - Stout

PROFESSIONAL INVOLVEMENT

Member - Wisconsin Healthcare
Engineers Association

Member - International Facility
Management Association

CERTIFICATIONS

American Institute of Constructors
Associate Constructor (AIC AC)

CHAD PARKER, LEED GA

Senior Project Manager

As Senior Project Manager, Chad brings 12 years of construction experience to the management of this project. Chad possesses a comprehensive background in all phases of engineering and construction management. He has strong organizational and interpersonal skills, with the ability to carry projects through to completion. Chad negotiates and writes all subcontracts and purchase orders, develops and manages project schedules, controls the budget, administers jobsite staff, prepares response to change order requests, administers shop drawings and submittals, prepares as-built documents and operations manuals, material expediting and general on-site project administration.

CURRENT PROJECTS

RUSD CPC Office Remodel - Expected Completion January 2022

Frontline Industrial Building - Expected Completion April 2022

HSA Oak Creek Building - Expected Completion June 2022

SC Johnson Howe St. Campus - Expected Completion September 2022

SELECTED RELEVANT EXPERIENCE

Kenosha County Public Safety Building, Kenosha, WI - The 57,600 SF multilevel expansion and renovation project is home to the City of Kenosha Police Department, the Kenosha County Sheriff's Department, the Kenosha City/County Joint Services. It consists of a three-level addition including a basement and three above-surface floors built adjacent to the existing structure.

Village of Menomonee Falls Department of Public Works, Menomonee Falls, WI - Completed in two phases, the 150,000 SF project includes a 90,000 SF vehicle storage building, a 12,000 SF office area, and an 11,000 SF service bay. It also features a salt dome, auxiliary storage buildings and a fueling station.

Village of Pleasant Prairie Public Works Facility, Pleasant Prairie, WI - The new Public Works Storage Facility for the Village of Pleasant Prairie is a 86,400 SF square-foot, fire resistant precast building to provide indoor storage space for trucks and other equipment that are currently stored outside due to lack of space in the existing storage buildings. Snow plows, plow blades, light duty vehicles, and other seasonal and general public works equipment are to be stored in the new building; this will help protect and prolong the life of the equipment.

The R.E.A.L School (Racine Engineering, Arts, and Leadership), Sturtevant, WI - 30,000 SF adaptive reuse project that turned an existing office building into a grade 6-12 charter school that accommodates over 300 students. Features include a student theater/auditorium, cafeteria, gymnasium, and faculty offices.

Horlick High School Science Wing Addition/Renovation, Racine, WI - 29,000 SF addition and renovation project that included remodeling of eight existing science labs and a two-story addition that houses four new labs. Remodeled labs were demolished to the studs and completely rebuilt. New labs had casework and finishes installed to match existing labs.

Frontline I-94 Industrial Building, Oak Creek, WI - New 350,000 industrial building to house company headquarters and separate leased space. Building features 32' clear height 30' overhead doors/loading docks. Constructed to support the future addition of a steel mezzanine and 30,000 SF of solar panels on the ballasted roof system.

MICHAEL ALTREUTHER

Superintendent

As Superintendent, Mike will use his thorough knowledge of field and project management to oversee coordination of all construction activities. His project supervision responsibilities include daily field coordination, direction of subcontractors and coordination of all trades and materials installation. He will oversee sequencing of operations, value-added construction methods, construction schedule adherence, materials expediting, site usage, layout and general direction of the work. Mike will maintain open communication with the owner, architect and project manager to ensure smooth project delivery.



36 years in the Industry

CERTIFICATIONS

OSHA 10-HR Training

CURRENT PROJECTS

Frontline I-94 Industrial Building - Expected Completion May 2022

SELECTED RELEVANT EXPERIENCE

Kenosha County Public Safety Building, Kenosha, WI - The 57,600 SF multilevel expansion and renovation project is home to the City of Kenosha Police Department, the Kenosha County Sheriff's Department, the Kenosha City/County Joint Services. It consists of a three-level addition including a basement and three above-surface floors built adjacent to the existing structure.

Kenosha County Public Safety Building 2017 Renovation, Kenosha, WI - The project consisted of renovations in two County facilities. The first was a major renovation of a 1900's era, two-story 8,000 SF brick building, converting it to a Fleet Maintenance Garage for city and county law enforcement. The second project was a five-phase remodel of existing space that included a 25,000 SF buildout of the 2009 addition shell space into the new Emergency Management Center and Detective Bureau; a 4,000 SF renovation for the future Medical Examiner's Office & Morgue; and back-filling of space inside the Sheriff's Department and Joint Services Administration.

Village of Pleasant Prairie Public Works Facility, Pleasant Prairie, WI - The new Public Works Storage Facility for the Village of Pleasant Prairie is a 86,400 SF square-foot, fire resistant precast building to provide indoor storage space for trucks and other equipment that are currently stored outside due to lack of space in the existing storage buildings. Snow plows, plow blades, light duty vehicles, and other seasonal and general public works equipment are to be stored in the new building; this will help protect and prolong the life of the equipment.

Lake Forest Municipal Services Facility, Lake Forest, IL - Municipal services facility which houses the Public Works Department administrative staff and various city departments. The project features a 29,000 SF administration building, an 88,000 SF heated garage, and a 20,000 SF covered storage area. Riley constructed a central data center in the facility to house computer servers and other sensitive communications equipment. The room features anti-static flooring, a room-specific HVAC system, and non-water based fire suppression. The project achieved LEED Gold Certification from the U.S. Green Building Council.

Ela Area Public Library, Lake Zurich, IL - This 71,603 SF two-story project included all related general trades (mechanical, plumbing, fire protection, electrical, landscaping & interior furnishings work) on approximately 5.7 acres of land, including all auxiliary support items, utilities, and site improvements.

New Berlin Public Library, New Berlin, WI - This 55,117 SF project was a two-story atrium highlights the circulation desk. Other areas feature a quiet reading area with fireplace, a children's program area where children can engage in arts and crafts activities, and a public meeting/community room.



17 years in the Industry

AMANDA TOEPEL, LEED AP

Senior Estimator

As Senior Project Estimator, Amanda brings diverse experience in constructing and estimating building systems on both renovation and new construction projects. Her estimating ability provides an accurate budget for every project she is involved with. All Riley projects are estimated and analyzed using Riley Construction's fluid estimating system which integrates BIM Autodesk Revit, MC2 and Excel. Amanda will take the project through a full analysis for site logistics, constructability, cost, procurement, schedule and alternative systems. As the design phase completes, she will review all final estimate packages and participate in the final bid preparation and bid day activities.

EDUCATION

BS Civil and Environmental Engineering - Construction Engineering and Management, University of Wisconsin, Madison

SELECTED RELEVANT EXPERIENCE

Queen Bee School District 16 Additions and Renovations, Glendale Heights, IL - Renovation to 5 schools, totaling 17,620 SF of renovated and 13,100 SF of additional space. Work included new gymnasiums and libraries and renovated offices and classrooms. Extensive sitework involved new playgrounds, parking lots, pickup/dropoff areas, and stormwater detention and drainage systems. Riley self-performed the carpentry, concrete, demolition, and drywall trades.

Pheasant Ridge AMITA Therapeutic Day School, Glendale Heights, IL - Project was part of a 4 school summer renovation for Queen Bee. The district consolidated 4 schools into 3 schools, and Pheasant Ridge was leased to AMITA Adventist GlenOaks Therapeutic Day School/Transition Program. Project included new stormwater drainage and concrete retaining wall/sidewalk to correct drainage issues. The Renovations included 16,000 SF renovation of art room, nurse and asst. principal office, student kitchen, life skills, sensory rooms, offices, stairways, and bathrooms.

Horlick High School Science Wing Addition/Renovation, Racine, WI - 29,000 SF addition and renovation project that included remodeling of eight existing science labs and a two-story addition that houses four new labs. Remodeled labs were demolished to the studs and completely rebuilt. New labs had casework and finishes installed to match existing labs.

Gateway Technical College iMET Center Expansion, - New addition to the Gateway Technical College integrated Manufacturing & Engineering Technology Center. This project provided 36,000 SF of additional space, which is to be used for new classroom and lab space for new smart manufacturing technology. Project was completed in 8 months through the winter in order to be ready for the 2019-2020 school year.

Gateway Technical College iMET Renovation, Sturtevant, WI - New addition to the Gateway Technical College integrated Manufacturing & Engineering Technology Center. This project provided 36,000 square feet of additional space, which is to be used for new classroom and lab space for new smart manufacturing technology. Project was completed in 8 months through the winter in order to be ready for the 2019-2020 school year.

ProHealth Care Oconomowoc Surgery Renovation, Oconomowoc, WI - 21,000 SF addition accommodates a new 10-bay patient recovery area and ancillary space for material distribution. The new structure consists of three levels of cast-in-place concrete and includes a new loading dock. Renovation includes 31,000 SF of space and adds two operating rooms, sterile processing, sterile core, and staff support spaces. A total of eight operating rooms were renovated or added to support this project.

5.05

PROPOSAL FOR CONSTRUCTION
MANAGER SERVICES

PROJECT MANAGEMENT APPROACH



LAKE FOREST MUNICIPAL SERVICES FACILITY

Lake Forest, IL



5.05

5.05 PROJECT MANAGEMENT APPROACH

OUR APPROACH: INSTEP

Riley Construction has spent decades finding ways to improve processes and exceed customer expectations. This ongoing commitment is the cornerstone of our Integrated System of Team Engagement Planning, or InSTEP®. InSTEP combines Lean production principles with cutting-edge construction technology and Riley's extensive industry knowledge to deliver a collaborative project experience that is efficient, effective and intensely focused on what you value the most.

InSTEP goes into action before to any construction work begins, and continues through all phases. The result is a transparent and predictable construction process that delivers high quality, on time and within budget.

INSTEP

Integrated System of Team Engagement Planning

®

Scan QR Code below to learn more:



SCAN ME

1. COMMUNICATIONS & REPORTING

Communication and collaboration are integral parts of Riley's proprietary InSTEP method of project delivery. Throughout your project, Riley will engage all team members - from Riley employees to the owner, architect and trade partners - to examine past, current and future processes and provide input on how to improve.

InSTEP's collaborative efforts include:

- Collaborate with key stakeholders (owner, design and trade partners) to develop Pull Plan schedules based on analysis of each work activities' duration and requirements for success. These Pull Plan schedules are reviewed throughout the construction phase to anticipate and address any challenges.
- Implement Six-Week Look Ahead schedules to ensure every team member has the right materials and manpower in place well ahead of time and address potential issues before they affect the schedule.
- Conduct regular Owner meetings to communicate project status and maintain an open line of dialogue amongst all team members.
- Engage all stakeholders in regular Team Meetings and solicit input from all parties.
- Send our Lean/InSTEP experts to job sites to observe conditions and processes firsthand and discuss concerns directly with field crews.
- Use visual management tools to present project data in a simple, straightforward manner.
- Provide owners with weekly Executive Summaries that recap the week's activities and scheduled work for the following week.

PROCORE: A COMMUNICATION HUB

Riley Construction uses the industry-leading project management system Procore to plan, organize, and communicate throughout your project. Procore allows all key stakeholders to access project documentation in real time, from anywhere. Procore houses all relevant construction documents including:

- Requests for Information (RFIs)
- Submittals
- Drawings
- Project documents
- Daily logs
- Quality control and safety inspections
- Meeting minutes
- Punch lists

Procore's mobile application gives the entire team access to project information through their smart phone or tablet (Android or IOS). This collaborative software offers full transparency to all stakeholders. The next page documents just a few of the features that make Procore a vital communication link between Riley, the owner, and the architect.

Please note: Riley can and will adapt to another project management software at the owner's request.

2. PROJECT SCOPE AND COST CONTROL

Cost Control starts with quality, detailed and well-thought-out plan and bid documents. When the project scope and team responsibilities are clearly identified, there are fewer Requests for Information (RFI) and change order requests. The task of the Cost Control system is to give a fair indication of the project budget and schedule. As Construction Manager, our team's keen business and financial aptitude will be used to closely monitor the budget as we will be responsible for consistent day-to-day project control.

Control and management of your project's budget will be achieved through the use of Viewpoint V6 software. Viewpoint is a fully integrated suite of applications covering accounting/financial management, operations, document management and project management. Riley Construction will manage the full range of tasks including contract management, RFI control, change orders, submittal/transmittal control, meetings, logs and lists. ProHealth Care can have confidence in the accuracy and the reliability of the data generated while trusting Riley Construction to judiciously manage the financial resources on this project. The project cost accounting will utilize Riley's in-house accounting system for the processing of all labor costs, trade contractor accounts and material purchases for the project.

On a monthly basis, Riley provides a comprehensive Cost Status Report, illustrating for each specification section the actual costs experienced on the project to date as compared to the budgeted account. The report will include the amount of each contract awarded, approved and anticipated change orders, and all other anticipated costs for the project. These costs are compared to the Control Budget, thereby identifying the potential for cost savings.

The cost of all materials purchased for the project are monitored on a monthly basis and presented in a computerized report which compares the budgeted and actual costs for all categories of permanent and non-permanent materials (i.e., concrete, lumber, insulation), and all general conditions expenses such as equipment rental, temporary heating fuel, power consumption, permit fees, etc.

Monthly progress billings provide a complete substantiation of all costs billed in the form of copies of all contractor and vendor invoices.

DIRECT COST CONTROL

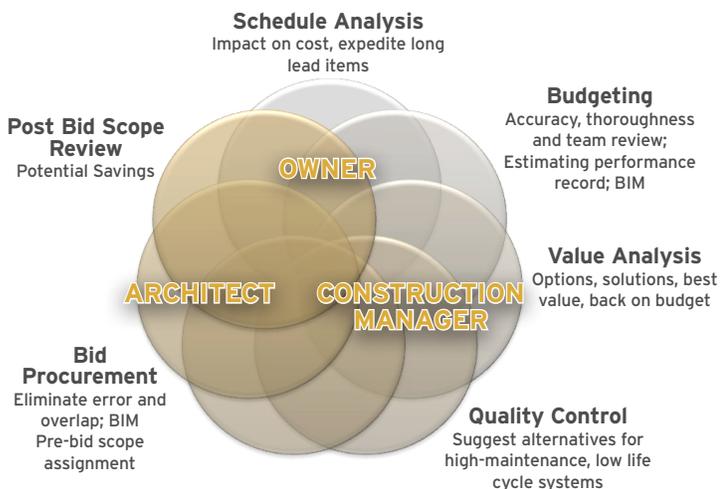
- A) Means, methods and materials
 - Collaborative to maximize quality, function, aesthetics and value
 - Knowledge of local market yields best pricing
 - Established subcontractor relationships delivers best pricing
- B) Experienced superintendent
 - Hands on superintendent keeps productivity level high
- C) Scheduling/Phasing
 - Avoid winter construction costs
 - Take advantage of market conditions by procuring long lead items

THE PRECONSTRUCTION PHASE IS THE #1 WAY TO KEEP YOUR PROJECT ON BUDGET

INDIRECT COST CONTROL

- A) Risk management (safety manager)
 - 17-year EMR average
0.62 = lower insurance costs
 - Subcontractor prequalification = minimizes risk of subcontractor default
- B) Conservative business practices
 - Yields premium bonding rates
- C) InSTEP Production Methods
 - Full-time experts on staff to implement Riley's InSTEP method. Focus solely on adding value. And identifying/addressing potential issues. Less rework, better quality
- D) Relationships
 - Personal relationships with local/state agencies expedites permits, approvals

COST CONTROL INITIATIVES



3. PROJECT SCHEDULE

DESIGN PHASE SCHEDULING

Riley has extensive experience in the planning, implementation and management of multiple bid packaging, or “fast tracking”, on major projects. The know-how and experience needed to work cooperatively with the design team to develop a design and bidding schedule will facilitate the earliest practical start of construction and efficient progression of construction work, without unnecessarily burdening the design process.

In cooperation with the design team, Riley will prepare a “design phase schedule” (typically at the same time that the initial budget estimate is prepared). The schedule identifies significant activities of each team member contributing to the design effort, and the relationships between each activity. Consistent with design time requirements, the schedule will be structured to provide the earliest practical start date for construction and to identify the individual bid packages required for bidding and construction. The schedule will include detail on such activities as:

1. Agency approvals (Local approval process)
2. Schematic design phase
3. Selection of major building systems
4. Design development phase
5. The Owner review and approval periods for design documents
6. Cost estimate preparation, review and approval
7. Establishment of Control Budget
8. Financing timetable (if applicable).
9. Issue dates for bid documents and bid periods
10. Bid review and award period
11. Lead times for shop drawing preparation and material procurement
12. Construction schedule during remaining design phase

This technique is a valuable tool for controlling the project throughout the design phase, and for the integration of early construction phases with the ongoing design activities.

CONSTRUCTION PHASE SCHEDULING

Riley’s proprietary “InSTEP®” (Integrated System of Team Engagement Planning) method of project delivery combines Lean production principles with cutting-edge construction technology and Riley’s extensive industry knowledge to deliver a collaborative project experience that is intensely focused on value, particularly when that value involves the schedule. Our processes include the following:

- We collaborate with key stakeholders (owner, design and trade partners) to design a Pull Production Schedule based on analysis of each work activities’ duration and requirements for success.
- Throughout the project, we hold regular Team Meetings with stakeholders to predict and prevent constraints and conflicts and develop solutions.
- On an ongoing basis, we develop Look-Ahead schedules that plan all work several weeks out. This ensures that we have the right materials and manpower in place ahead of time and enables us to address potential issues before they affect the schedule.

In addition to our InSTEP methods, our project team members are proficient in Critical Path Method (CPM) scheduling and all other conventional, manual scheduling systems. Regardless of the methods employed, the following represents basic scheduling procedures, which we would follow on the project:

I. Initial Schedule Preparation

- a. Develop overall preliminary network diagram, identifying all phases of the project and their interrelationships.
- b. Establish dates for each phase and final completion.
- c. Provide any additional information requested related to the schedule (partial completion for Owner occupancy, etc.).

II. Beginning of Construction

- a. Develop detailed construction schedules establishing the most efficient and economical progress of the work.
- b. Consult with the Owner and the Architect to establish partial completion dates for areas if desired for early occupancy.
- c. Meet with all major trade contractors to ensure that all participants in the project can conform to the schedule.

III. During Construction Period

- a. Continuously monitor progress of the work to ascertain the status of construction.
- b. Address scheduling issues with contractors and material suppliers to correct delays. Review contractor manpower availability and make reasonable demands upon contractors to maintain satisfactory progress. Monitor material delivery schedules and expedite fabrication and delivery of critical items.
- c. Keep Owner constantly informed as to schedule status. Advise as to actual availability dates of completed spaces.

4. SITE COORDINATION AND REGULATORY APPROVALS/INSPECTIONS

SITE USE/LOGISTICS PLANNING

Riley will produce detailed site utilization and project logistics plans. These plans, developed by our construction planning team, will be used to illustrate safety measures for safety, ingress/ egress, project sequencing, phasing, MEP systems distribution, staging of materials, hoisting and materials handling, site access and other site use restrictions. Laydown areas and clear access to all areas around the structure will be planned and identified, as well as provisions for temporary access to all required areas adjacent to the project. The logistics plan will be continuously updated to show successive phases of construction and staging.



Example of a site logistics plan.

PERMITTING AND APPROVALS

In concert with the design team, Riley will manage the process of all project requirements for permits and approvals, and will incorporate these into the project schedule. It is critical that all permitting requirements be identified as early as possible to allow sufficient lead time for regulatory approvals and acquisition of all permits without adversely impacting the schedule.

INSPECTIONS AND COMMISSIONING

In cooperation with the owner, design team, and public inspectors, Riley coordinates testing and commissioning of all applicable mechanical, electrical, and life safety systems ensure proper functioning and to secure a Certificate of Occupancy in accordance with the schedule. Riley will prepare written procedures for use in the commissioning process with the contractors. These procedures outline specific project requirements in compliance with design documents for installation coordination, shop drawings, start-up, commissioning, testing procedures, owner training of all systems, and occupancy preparation of life safety systems.

Testing and commissioning will be applied to all mechanical and electrical systems throughout the construction process in sequence with the schedule. Because multiple areas require separate testing and inspection to acquire Certificates of Occupancy, Riley will provide a Life Safety Systems Coordination process that includes the following steps:

- Identify various life safety systems on the project.
- Identify the equipment involved in each system and the sequence of operation.
- Identify required systems test procedures
- Identify required testing equipment
- Indicate the recording format for tests
- Provide above information in a "Life Safety Systems" booklet
- Coordinate the book with State Health Department, design team and contractors
- Submit book to inspection officials for review and input
- Distribute finalized book to all involved contractors
- Schedule and witness pre-testing of all life safety systems
- Schedule and perform final tests with the owner and all inspection officials

5. QUALITY CONTROL

Riley Construction's Quality Control approach is integrated and comprehensive. Our formal Quality Control Plan (available on request) provides Riley employees and subcontractors with a standardized framework for key construction activities such as preinstallation meetings, inspections, and documentation.

By embedding these standards into each project, QC has become a natural part of the Riley team's workday. Field leaders examine the jobsite for not only productivity, but also adherence to specifications and proper installation procedures. Project managers lead meetings such as scope reviews and preinstallations that encompass technical details, to ensure all trades thoroughly understand the technical aspects of each activity.

QC AND SUBCONTRACTORS

At Riley Construction, every sub-contractor and supplier is required to complete a detailed prequalification form to identify their capacity, capabilities, financial strength, and safety performance before their bids are considered. Low bidders who meet Riley's stringent prequalification requirements are then brought in for a detailed scope review and bid analysis before final award.

Successful bidders are expected to adhere to the guidelines set forth in Riley's Quality Control Plan throughout the job duration.

SITE-SPECIFIC QC PLANS

When requested, Riley will provide additional QC guidelines specific to a particular project. These plans may be necessary to accommodate unique phasing or site logistics; complex equipment installations; or owner-requested inspections or documentation.

Site-specific plans may include items in addition to those set forth in Riley's Quality Control Plan, but will not reduce or eliminate any QC guidelines specified in the original Plan.

INSTEP

Integrated System of Team Engagement Planning [®]

QUALITY CONTROL AND INSTEP[®]

Quality Control is an essential part of Riley's Integrated System of Team Engagement Planning, or InSTEP[®]. Our proprietary method of project delivery combines Lean production principles with cutting-edge construction technology and Riley's extensive industry knowledge to deliver a collaborative project experience that is efficient, effective, and intensely focused on what you value the most.

With a relentless focus on increasing value to the customer while eliminating waste, InSTEP leads the project team through an organic Quality Control process. InSTEP creates an efficient workflow that delivers the correct information, tools, material, equipment, resources, and workspace to the job where and when it is needed – and high quality is a natural byproduct of this method.

Riley puts InSTEP into action before any construction work begins and continues to implement its proven methods through every phase of your project. The result is a transparent and predictable process and ultimately a quality project, delivered on time and within budget.

6. SITE SAFETY

0.55 EMR
vs. 1.0 national average



0.45 DART rate
vs. 1.5 national average

10+ years
without an OSHA citation

The purpose of the Riley Construction Company Inc. Safety Program is to provide policy and guidelines to eliminate serious accidents and injuries. The prevention of accidents and injuries is the first and primary consideration of the Program where the safe personal habits and attitudes of a person should continue whether on or off the job.

Accident and injury prevention is everyone's responsibility. Top management will stay informed and assure that supervision is given direction to carry out the proper safe practices and procedures. Direct supervision is held accountable, within the scope of its work assignment, for its immediate supervision. Riley Construction has a zero tolerance for safety violations on the job site, and our record reflects that commitment. We maintain an industry-leading EMR backed by a team of safety professionals who will focus on delivering a project with zero safety incidents or violations.

| YEAR | RATE |
|------|------|
| 2021 | .55 |
| 2020 | .51 |
| 2019 | .56 |
| 2018 | .55 |
| 2017 | .54 |

Riley's 17-year average is .65

Riley will conduct jobsite safety inspections, and will provide SDS paperwork as required by OSHA. We will conduct daily inspections of equipment, trench, and excavation activities as required by OSHA and also conduct weekly safety awareness talks at the owner's facility or job site.

Our formal corporate Safety Program is available upon request.

RECENT SAFETY RECOGNITIONS

Daily Reporter Hard Hat Safety Award
Abbott/AbbVie Lake County Contractor Safety Recognition
Summit Insurance Ltd. Safety and Risk Excellence Award
Great Lakes Construction Association Safety Achievement Award

7. PHILOSOPHY OF DISPUTE RESOLUTION

Riley Construction fosters collaborative partnerships from the start of every project with our Integrated System of Team Engagement Planning (InSTEP®) approach to project delivery. While not a part of an actual construction contract, we consider every contract to include an implied covenant of good faith. We also subscribe to the philosophy that most disputes arise from a lack of communication, and that the best way to handle disputes is to communicate with the team and prevent them from occurring in the first place.

Team Engagement is, literally, InSTEP's middle name. Throughout your project, Riley will engage all team members - from Riley employees to the owner, architect and trade partners - to examine past, current and future processes and provide input on how to improve. This transparency empowers all stakeholders to challenge the status quo and continuously raises standards on our projects.

InSTEP's collaborative efforts include:

- Engaging all stakeholders in regular Team Meetings and soliciting input from all parties.
- Examining every step involved in a process, so all involved parties understand their individual responsibilities.
- Sending our Lean/InSTEP experts to job sites, so they can observe conditions and processes firsthand and discuss concerns directly with field crews.
- Discussing potential constraints to achieving goals and working toward scenarios where everybody wins.
- Using visual management tools to present project data in a simple, straightforward manner.

InSTEP integrates relationships among all project stakeholders by created a mutually-agreed upon set of values and goals. It facilitates an environment where trust and team work prevent disputes, fosters a cooperative bond to everyone's benefit and drives the completion of a successful project.

PROJECT KICKOFF AND ASSESSMENT REPORTING

Riley begins each project with a Kickoff Meeting that involves key stakeholders. This forum produces the opportunity to initiate the key elements of the team:

- **Desired Outcomes:** How each stakeholder would define "success" on the project. This creates a mutual understanding of what all parties ultimately expect from one another.

- **Value:** Which items each stakeholder considers most valuable on the project. This enables all parties to prioritize and focus their decisions throughout the job.
- **Metrics:** Stakeholders identify and define measurable metrics that will enable all parties to see how well each team is performing. When appropriate, Riley develops a formal Project Assessment Report (PAR) schedule, where we periodically publish the status of these metrics in a brochure-style format that visually communicates how well we are performing.

MANAGING CHANGE

Change orders are inherent into the construction process, but Riley has extensive experience drafting and implementing change order procedure plans to greatly minimize any possible conflict. Working with the design team, we will develop and implement a formal change management process specifically for your project. This system will be customized to the owner's requirements and will incorporate a thorough tracking system for field and change orders.

In our role as Construction Manager, we study design drawings as they are progressing and provide recommendations for better construction means and methods as well as identify areas of conflict and overlap. This early involvement addresses design concerns before they ever make it to the field.

Riley Construction takes great care in defining a scope of work summary for each trade contractor bid package. By clearly defining each trade's scope of work, and including that narrative in the specification, the opportunity for change orders later is greatly reduced or eliminated.

OUR GOAL IS YOUR COMPLETE SATISFACTION

If a dispute does occur, we will not stop working until the issue is resolved. Our company is "Large Enough to Serve You, but Small Enough to Know You," which means there is a level of communication and lack of bureaucracy that our larger competitors cannot match. Our Superintendents and Project Managers have a direct line to the Executive Team – and so do you as the client. If an issue arises, you have quick access to whatever level of management is necessary to get the resolution you need quickly and efficiently.

5.06

PROPOSAL FOR CONSTRUCTION
MANAGER SERVICES

COMPENSATION AND EXPENSES



WHITEFISH BAY PUBLIC WORKS FACILITY

Whitefish Bay, WI



Attachment A

Price Proposal Form (Page 1 of 2)

Provide a breakdown of your Price Proposal.

1.0 Construction Manager's Fee

Identify the fee established by the Proposer for all overhead and profit using the budget amounts provided in this RFP. (the "Construction Manager's Fee")

Express the fee as a percentage of those expected construction costs where the Construction Manager is also the Constructor: _____ %

Express the fee as a percentage of those expected construction costs where the Construction Manager is not the Constructor _____ %

2.0 Not-to-Exceed Reimbursable Expenses

Identify the cost of all reimbursable expenses for this Project.

\$ _____

3.0 General Conditions - Project Management and Supervision

Identify the costs of all direct project management and supervision for this Project using the schedule and budget information provided in this RFP.

\$ _____

Price Proposal Form (page 2 of 2)

9.0 Itemization of Labor Rates and Level of Effort

Provide a breakdown of expected hours devoted to this project, labor rates and estimated costs for Project Personnel.

| Position | Estimated Hours | Hourly Rates Including Labor & OH & P | Estimated Total Cost |
|------------------------|------------------------|--|-----------------------------|
| Senior Project Manager | _____ | _____ | _____ |
| Project Superintendent | _____ | _____ | _____ |
| Lead Estimator | _____ | _____ | _____ |
| Project Engineer | _____ | _____ | _____ |
| Project Coordinator | _____ | _____ | _____ |
| Other (Specify) | _____ | _____ | _____ |
| Other (Specify) | _____ | _____ | _____ |
| Other (Specify) | _____ | _____ | _____ |
| Project Totals | _____ | | _____ |

5.07

PROPOSAL FOR CONSTRUCTION
MANAGER SERVICES

AFFIDAVIT OF NON-COLLUSION AND/OR CONFLICT OF INTEREST



LAKE ZURICH POLICE DEPARTMENT HEADQUARTERS

Lake Zurich, IL



Attachment B

AFFIDAVIT OF NON-COLLUSION AND/OR CONFLICT OF INTEREST

Name Erin Anderson

Title Vice President of Project Management

Deposes and says That: Riley Construction Company, Inc.
Name of Entity or other form of business

has not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition in connection with this proposal;

That the proposal has been independently arrived at without collusion with any other proposal or any other competitor or potential competitor;

That the proposal has not knowingly been disclosed prior to the opening of proposals to any other proposal or competitor;

That no attempt has been made to induce any other person or firm to submit or not to submit a proposal;

That aforementioned company is in compliance with Chapter 946.13 of the Wisconsin Statutes in the matter of private interest in public contracts;

That the above statement is accurate under penalty of perjury.

Signed 

Subscribed and sworn before me this 5 day of October, 2021

Notary Public 

My Commission expires 9-22-24



5.08

PROPOSAL FOR CONSTRUCTION
MANAGER SERVICES

ACKNOWLEDGEMENT AND ATTESTATION FORM



COUNTRYSIDE FIRE PROTECTION DISTRICT #1
Mundelein, IL



Attachment C

ACKNOWLEDGEMENT AND ATTESTATION FORM

By submitting a proposal, the undersigned certifies that he or she has reviewed the Request for Proposals for Construction Manager at Risk and all Addenda listed below, all as issued by The Village for its Project, is familiar with their terms and conditions, and accepts the requirements imposed by them on the Proposer. The undersigned further certifies that if selected as the Construction Manager at Risk, it can and will satisfy the objectives of the Project within the constraints of the Milestone Schedule and Project Budget, all as set forth in this RFP and its Proposal.

I hereby certify that the foregoing is true and correct:

Proposer's Name: Riley Construction Company, Inc.

By: 

Printed Name Erin Anderson

Title: Vice President of Project Management

Date October 5th, 2021

5.09

PROPOSAL FOR CONSTRUCTION
MANAGER SERVICES

INSURANCE AND LEGAL RESPONSIBILITIES



911 BAYSIDE COMMUNICATION CENTER
Bayside, WI



5.09 INSURANCE & LEGAL RESPONSIBILITIES

5.09a. List the names and addresses of the insurance companies that have written commercial liability insurance policies for your organization and for the projects listed in the experience section of this RFP during the past three (3) years. Joint ventures should list the insurers for the company or person expected to be the major owner of the joint venture.

AGENT INFORMATION

Johnson Insurance Kenosha
Contact: Amanda Johnson
1103 Hunter Drive #100
Mt. Pleasant, WI 53406
P (920) 405-7401

CARRIER INFORMATION

General Liability, Auto, Employers Liability, and Workers Compensation

Old Republic Insurance Company
133 Oakland Avenue
P.O. Box 789
Greensburg, PA 15601
P (800) 766-5673

Umbrella, Cyber, and Crime Liability

The Travelers Companies, Inc.
One Tower Square
Hartford, CT 06183
P (800) 328-2189

Professional Liability

Great American Insurance Group
Property & Casualty Group
301 E Fourth Street
Cincinnati, OH 45202
P (800) 221-7274

Property/Builders Risk

CNA
PO Box 1236
Milwaukee, WI 53201-1236
P (414) 844-2500

5.09b. Has any insurance company made any payment on behalf of the persons or organizations covered? If so, indicate names and addresses of insurance companies, particulars of payment and date(s).

Riley Construction Company's insurance has not made any payment on behalf of the persons or organizations covered.

5.09c. Is your firm now, or has it been within the past five (5) years, involved in any legal action, related to any projects? If yes, please explain in detail and identify any judgements entered in such action.

Riley Construction Company, Inc has not been involved in any legal action related to any projects within the past five (5) years.

5.10

PROPOSAL FOR CONSTRUCTION
MANAGER SERVICES

FINANCIAL STATEMENT

5.10



RILEY
CONSTRUCTION

GLENVIEW POLICE DEPARTMENT HEADQUARTERS

Glenview, IL



**RILEY CONSTRUCTION COMPANY, INC.
AND AFFILIATES**

CONSOLIDATED BALANCE SHEETS

DECEMBER 31, 2020 AND 2019

WITH INDEPENDENT AUDITORS' REPORT





Vrakas Advisors LLC
7500 Green Bay Road, Suite 300
Kenosha, Wisconsin 53142

INDEPENDENT AUDITORS' REPORT

To the Boards of Directors
Riley Construction Company, Inc. and affiliates

We have audited the accompanying consolidated balance sheets of RILEY CONSTRUCTION COMPANY, INC. (an S corporation) and affiliates, as of December 31, 2020 and 2019, and the related notes to the consolidated balance sheets.

Management's Responsibility for the Consolidated Balance Sheets

Management is responsible for the preparation and fair presentation of these consolidated balance sheets in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated balance sheets that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these consolidated balance sheets based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated balance sheets are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated balance sheets. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the consolidated balance sheets, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated balance sheets in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated balance sheets.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated balance sheets referred to above present fairly, in all material respects, the financial position of Riley Construction Company, Inc. and affiliates as of December 31, 2020 and 2019 in conformity with accounting principles generally accepted in the United States of America.

Kenosha, Wisconsin
February 19, 2021

**RILEY CONSTRUCTION COMPANY, INC.
AND AFFILIATES**

CONSOLIDATED BALANCE SHEETS

DECEMBER 31, 2020 AND 2019

| | <u>2020</u> | <u>2019</u> |
|--|----------------------|----------------------|
| ASSETS | | |
| CURRENT ASSETS | | |
| Cash and cash equivalents | \$ 14,156,431 | \$ 8,204,466 |
| Accounts receivable | 29,920,036 | 31,191,489 |
| Retainage receivable | 2,975,982 | 5,779,823 |
| Other receivable | 3,165 | - |
| Costs and estimated earnings in excess of billings on contracts in progress | 256,858 | 148,769 |
| Prepaid expenses | 244,528 | 90,584 |
| TOTAL CURRENT ASSETS | 47,557,000 | 45,415,131 |
| PROPERTY AND EQUIPMENT | | |
| Vehicles | 291,235 | 320,229 |
| Production equipment | 1,625,951 | 1,678,287 |
| Furniture and fixtures | 2,040,229 | 2,008,960 |
| Leasehold improvements | 1,282,510 | 1,250,450 |
| TOTAL PROPERTY AND EQUIPMENT | 5,239,925 | 5,257,926 |
| Less - accumulated depreciation | 3,903,875 | 3,538,964 |
| NET PROPERTY AND EQUIPMENT | 1,336,050 | 1,718,962 |
| CASH SURRENDER VALUE OF LIFE INSURANCE | 177,946 | 75,136 |
| OTHER ASSETS | 42,329 | 36,000 |
| | \$ 49,113,325 | \$ 47,245,229 |
| LIABILITIES AND EQUITY | | |
| CURRENT LIABILITIES | | |
| Accounts payable | \$ 22,177,422 | \$ 18,296,397 |
| Retainage payable | 4,975,193 | 9,939,382 |
| Billing in excess of costs and estimated earnings on contracts in progress | 11,070,385 | 5,035,091 |
| Accrued liabilities | 1,598,717 | 3,499,832 |
| TOTAL CURRENT LIABILITIES | 39,821,717 | 36,770,702 |
| EQUITY | 9,291,608 | 10,474,527 |
| | \$ 49,113,325 | \$ 47,245,229 |

The accompanying notes are an integral part of these statements.

5.11

PROPOSAL FOR CONSTRUCTION
MANAGER SERVICES

PROJECT SCHEDULE

5.11



RILEY
CONSTRUCTION

COUNTRYSIDE FIRE PROTECTION DISTRICT #2

Vernon Hills, IL

**COUNTRYSIDE FIRE
PROTECTION DISTRICT**
600 NORTH DEERPATH DRIVE

← **VERNON HILLS STATION
ENTRANCE**



Village of Caledonia Public Safety Building

| ID | Task Name | Duration | Start | Finish | Half 2, 2021 | | | | | | | Half 1, 2022 | | | | | | | Half 2, 2022 | | | | | | | Half 1, 2023 | | | | | | | Half 2, 2023 | | | | | | | | | | | | | | | | | |
|----|--|-----------------|---------------------|--------------------|--------------|---|---|---|---|---|---|--------------|---|---|---|---|---|---|--------------|---|---|---|---|---|---|--------------|---|---|---|---|---|---|--------------|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| | | | | | M | J | S | N | J | M | M | J | S | N | J | M | M | J | S | N | J | M | M | J | S | N | J | M | M | J | S | N | | | | | | | | | | | | | | | | | | |
| 0 | Village of Caledonia - Public Safety Building | 461 days | Thu 10/14/21 | Mon 7/31/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 1 | Pre-Construction | 154 days | Thu 10/14/21 | Tue 5/24/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | Proposals Due | 0 days | Thu 10/14/21 | Thu 10/14/21 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 3 | Recommendation to Village Board | 0 days | Mon 11/1/21 | Mon 11/1/21 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 4 | Award Construction Manager | 0 days | Tue 11/2/21 | Tue 11/2/21 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 5 | Design Development - FGM | 120 days | Wed 11/3/21 | Tue 4/26/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 6 | Schematic Design Set (50%) Released | 0 days | Wed 12/8/21 | Wed 12/8/21 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7 | Schematic Budget Review - Riley | 15 days | Thu 12/9/21 | Fri 12/31/21 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8 | Steel/Precast/Roofing Bid Package Released | 0 days | Fri 1/28/22 | Fri 1/28/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9 | Bid Steel/Precast/Roofing Bid Package | 10 days | Mon 1/31/22 | Fri 2/11/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10 | Award Steel, Precast, and Roofing Contracts | 0 days | Fri 2/11/22 | Fri 2/11/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 11 | Design Development Set (80%) Released | 0 days | Mon 2/21/22 | Mon 2/21/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 12 | Design Development Budget Review - Riley | 15 days | Tue 2/22/22 | Mon 3/14/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 13 | Construction Document Set (100%) Released | 0 days | Mon 3/28/22 | Mon 3/28/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 14 | Bid CD Set - Riley | 15 days | Tue 3/29/22 | Tue 4/19/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 15 | Bid Opening/Scope Reviews - Riley | 10 days | Wed 4/20/22 | Tue 5/3/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 16 | Provide GMP to Village - Riley | 0 days | Tue 5/3/22 | Tue 5/3/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 17 | GMP Established | 0 days | Wed 5/4/22 | Wed 5/4/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 18 | Subcontractor Awards - Riley | 15 days | Wed 5/4/22 | Tue 5/24/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 19 | Permits & Approvals | 45 days | Tue 3/29/22 | Wed 6/1/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 20 | Construction Documents State Approval | 40 days | Tue 3/29/22 | Tue 5/24/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 21 | Building Permits | 5 days | Wed 5/25/22 | Wed 6/1/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 22 | Procurement/Leadtime | 231 days | Mon 2/14/22 | Thu 1/5/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 23 | Precast | 160 days | Mon 2/14/22 | Wed 9/28/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 24 | Steel | 160 days | Mon 2/14/22 | Wed 9/28/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 25 | Roofing Insulation | 120 days | Mon 2/14/22 | Wed 8/3/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 26 | Electrical Switch Gear | 100 days | Fri 7/29/22 | Thu 12/15/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 27 | HVAC - Rooftop Equipment | 100 days | Fri 7/29/22 | Thu 12/15/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 28 | Curtainwall Framing and Glass | 60 days | Fri 8/19/22 | Thu 11/10/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 29 | Doors/Frames/Hardware | 80 days | Fri 9/16/22 | Thu 1/5/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 30 | OH Doors | 80 days | Fri 9/2/22 | Thu 12/22/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 31 | Construction | 302 days | Wed 6/1/22 | Mon 7/31/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 32 | Sitework | 296 days | Wed 6/1/22 | Fri 7/21/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 33 | Commence Construction | 0 days | Wed 6/1/22 | Wed 6/1/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 34 | Site Grading | 60 days | Thu 6/2/22 | Thu 8/25/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 35 | Site Utilities | 45 days | Fri 7/29/22 | Thu 9/29/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 36 | Footings and Foundations | 50 days | Fri 8/26/22 | Thu 11/3/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 37 | Stone Parking Lot/Driveways | 20 days | Fri 8/26/22 | Thu 9/22/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 38 | Curb and Gutter | 15 days | Fri 9/23/22 | Thu 10/13/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 39 | Backfill Curbs/Topsoil Work | 10 days | Fri 10/14/22 | Thu 10/27/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 40 | Pave Parking Lots and Driveways - Binder Course | 10 days | Fri 10/28/22 | Thu 11/10/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 41 | Prep Site - Winter 2022 | 15 days | Fri 11/11/22 | Thu 12/1/22 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 42 | Concrete Sidewalks and Stoops | 20 days | Mon 5/15/23 | Fri 6/9/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 43 | Asphalt Final Coat/Signage | 10 days | Mon 6/12/23 | Fri 6/23/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 44 | Landscaping | 30 days | Mon 6/5/23 | Fri 7/14/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 45 | Security Fencing and Gates | 20 days | Mon 6/26/23 | Fri 7/21/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 46 | Building Construction | 211 days | Mon 10/10/22 | Mon 7/31/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 47 | Building Exterior Shell | 120 days | Mon 10/10/22 | Fri 3/24/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 48 | Building Enclosed | 0 days | Fri 3/24/23 | Fri 3/24/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 49 | Building Interior Buildout | 100 days | Mon 2/20/23 | Fri 7/7/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 50 | MEP Testing and Compliance | 15 days | Mon 7/10/23 | Fri 7/28/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 51 | Punch List and Final Cleaning | 15 days | Mon 7/10/23 | Fri 7/28/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 52 | Final Inspections | 5 days | Mon 7/24/23 | Fri 7/28/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 53 | Substantial Completion | 0 days | Mon 7/31/23 | Mon 7/31/23 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Date: Wed 10/6/21
Page 1

| | | | | |
|---|---|--|---|--|
| ▬ Project Summary | ▬ Manual Summary Rollup | ▬ Deadline | ◆ Path Predecessor Normal Task | ▬ Progress |
| ◆ Manual Task | ▬ Manual Summary | ▬ Path Predecessor Milestone Task | ▬ Critical | ▬ Manual Progress |

5.12

PROPOSAL FOR CONSTRUCTION
MANAGER SERVICES

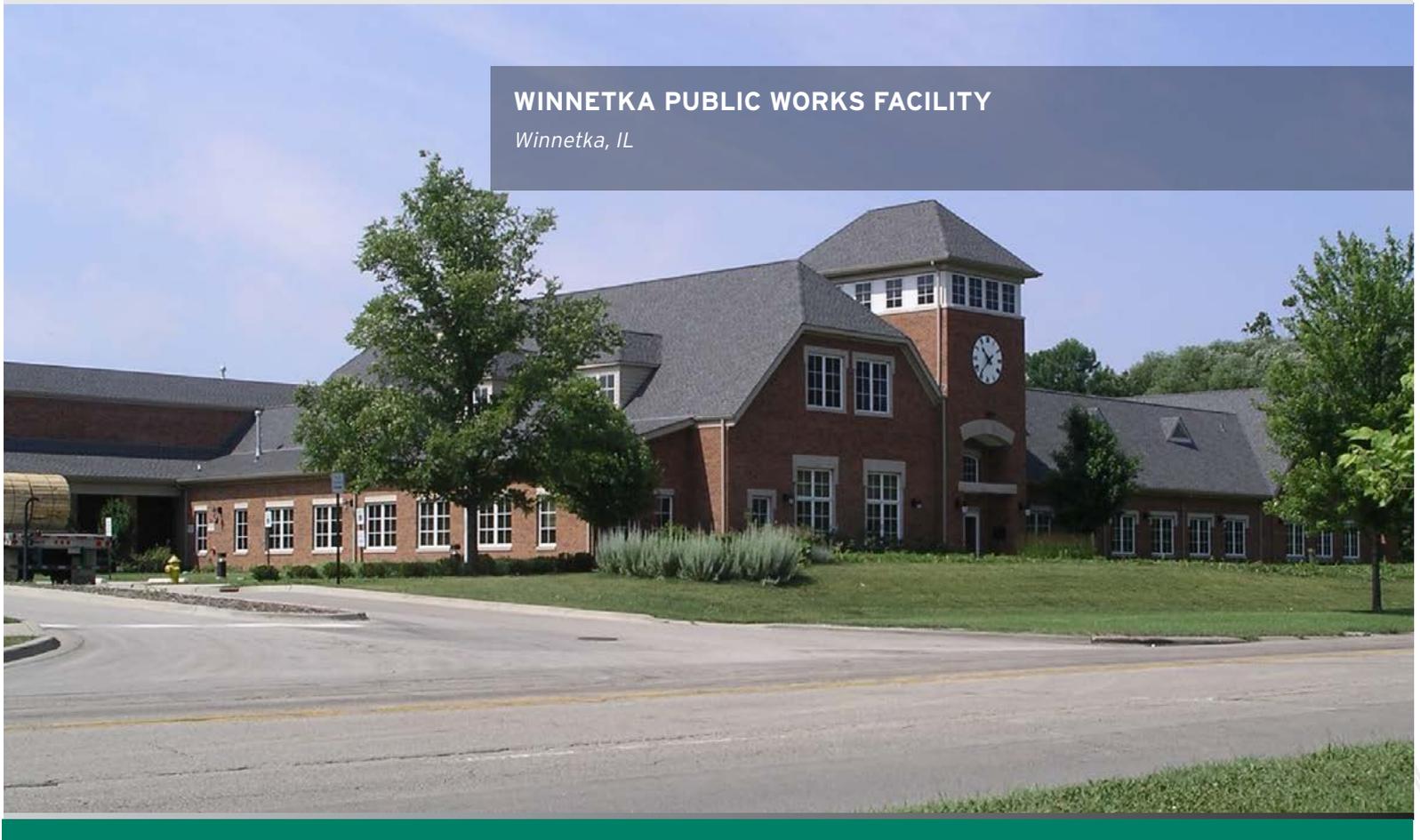
INSURANCE



RILEY
CONSTRUCTION

WINNETKA PUBLIC WORKS FACILITY

Winnetka, IL



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

| Name Of Additional Insured Person(s) Or Organization(s) | Location(s) Of Covered Operations |
|--|-----------------------------------|
| All persons or organizations when required by written contract or agreement | All locations |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. | |

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

| Name Of Additional Insured Person(s) Or Organization(s) | Location And Description Of Completed Operations |
|--|--|
| All persons or organizations when required by written contract or agreement | All completed operations |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. | |

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance Condition** and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:

All Persons or Organizations as required by written contract or agreement

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us of Section IV – Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

POLICY NUMBER: MWC311641

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

**REQUESTED PER CONTRACT SPECIFICATIONS TO THE EXTENT
ALLOWABLE BY LAW.**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

| Name Of Additional Insured Person(s) Or Organization(s) | Location(s) Of Covered Operations |
|--|-----------------------------------|
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A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or

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whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

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PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

| Name Of Additional Insured Person(s) Or Organization(s) | Location And Description Of Completed Operations |
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However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
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1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

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**PRIMARY AND NONCONTRIBUTORY –
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance Condition** and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

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COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:

All Persons or Organizations as required by written contract or agreement

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. Transfer Of Rights Of Recovery Against Others To Us of Section IV – Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

POLICY NUMBER: MWC311641

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

**REQUESTED PER CONTRACT SPECIFICATIONS TO THE EXTENT
ALLOWABLE BY LAW.**





MILWAUKEE
N19 W23993 Ridgeview
Parkway
Suite 150
Waukesha, WI 53188
(414) 359-0100

KENOSHA
5301 99th Avenue
Kenosha, WI 53144
(262) 658-4381

CHICAGO
1661 Feehanville Drive
#430
Mount Prospect, IL 60056
(224) 580-2400

WAUKEGAN
1032 S. Northpoint Blvd.
Waukegan, IL 60085
(847) 457-3909

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your job easier.[™]

DRAFT AIA® Document A133™ – 2019

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

10-29-21 DRAFT IS FOR EXAMPLE PURPOSES SUBJECT TO ADDITIONAL VILLAGE

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

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

VILLAGE OF CALEDONIA
5043 Chester Lane Racine, WI 53402

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

RILEY CONSTRUCTION COMPANY, INC.
5301 99TH Avenue
Kenosha, WI 53144

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

Village of Caledonia New Public Safety Building
5043 Chester Ln.
Caledonia, WI 53402

Description: The project consists of a new Public Safety Building for Police and Fire of approximately 52,000 square feet.

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

FGM Architects Inc.
219 N. Milwaukee St., Suite 325
Milwaukee, WI 53202

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

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

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

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 GENERAL PROVISIONS
- 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES
- 4 OWNER'S RESPONSIBILITIES
- 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES
- 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES
- 7 COST OF THE WORK FOR CONSTRUCTION PHASE
- 8 DISCOUNTS, REBATES, AND REFUNDS
- 9 SUBCONTRACTS AND OTHER AGREEMENTS
- 10 ACCOUNTING RECORDS
- 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES
- 12 DISPUTE RESOLUTION
- 13 TERMINATION OR SUSPENSION
- 14 MISCELLANEOUS PROVISIONS
- 15 SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

EXHIBIT B INSURANCE AND BONDS

NOTE:

PERFORMANCE BOND AND PAYMENT BOND REQUIREMENTS TO BE ADDED TO EXHIBIT B

The Construction Manager shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Construction Manager's usual source, and the cost thereof shall be included in the Construction Manager's fee. The amount of each bond shall be equal to 110% of the Contract Sum for the Work; except that the Construction Manager may reduce the amount of the bond or bonds to be furnished under this Section to the extent that a subcontractor of the Construction Manager is furnishing bonds (which bonds must name the Owner as a beneficiary) covering such portion of the Work to be undertaken by the subcontractor. All bonds shall be in a form approved by the Village Public Services Director.

The Construction Manager shall deliver the required bonds to the Owner at least three days before the commencement of any Work at the Project site.

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

See Exhibit B for program spreadsheet

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

The project includes construction management for a new Public Safety Building to house the Police and Fire Departments. The new building will be located on Village owned land adjacent to the existing Village Hall at 5043 Chester Lane, Caledonia, WI. The building is planned to be approximately 52,500 SF.

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:

(Provide total and, if known, a line item breakdown.)

The not to exceed budget for all Project construction and commissioning work is \$18,280.00 inclusive of the Construction Manager Fee.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

| | |
|-------------------------------|-------------------------------|
| Schematic Design | November 2021 – December 2021 |
| Design Development | December 2021 – January 2022 |
| Construction Documents | February 2022 – Spring 2022 |
| Public Bidding & Negotiations | Spring 2022 |

.2 Construction commencement date:

Summer/Fall 2022

.3 Substantial Completion date or dates:

August 2023

.4 Other milestone dates:

N/A

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:

(Identify any requirements for fast-track scheduling or phased construction.)

« »

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere.)

« »

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Kathy Kasper
Village Administrator
Village of Caledonia
5043 Chester Lane
Caledonia, WI 53402
262-835-6422

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

Chief Christopher Botsch
Caledonia Police Department
6900 Nicholson Road
Caledonia, WI 53108
262-835-4423
cbotsch@caledonia-wi.gov

Chief Jeff Henningfeld
Caledonia Fire Department
6900 Nicholson Road
Caledonia, WI 53108
262-835-2050
firechief@caledonia-wi.gov

Raymond Lee, AIA
Principal-in-charge
FGM Architects
630-574-8711
rayl@fgmarchitects.com

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

TBD. Architect will assist owner in selecting a geotechnical engineer

.2 Civil Engineer:

Included in Architect's services

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

Land Surveyor- Included in Architect's services

Additional Consultants retained under Architect's Agreement Basic Services:

Structural Engineer:

Ambrose Engineering
W66N215 Commerce Court
Cedarburg, WI 53012

Mechanical Engineer:

Clark Dietz, Inc.
625 57th Street
Kenosha, WI 53140

Electrical Engineer (including low-voltage and audio-visual design):

Clark Dietz, Inc.
625 57th Street
Kenosha, WI 53140

Plumbing & Fire Protection Designer:

Clark Dietz, Inc.
625 57th Street
Kenosha, WI 53140

Civil Engineer & Surveyor:

Clark Dietz, Inc.
625 57th Street
Kenosha, WI 53140

Security Systems Designer:

Correct Electronics
1807 South Washington Street
Suite 110, PMB 386
Naperville, IL 60565

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Raymond Lee, AIA
Principal-in-charge
FGM Architects
630-574-8711
rayl@fgmarchitects.com

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

<< >>
<< >>
<< >>
<< >>
<< >>
<< >>

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

<< >>

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

All subcontractor Work shall be in compliance with the public contract and bidding requirements as set forth in the Owner's Code of Ordinances and the Wisconsin Statutes.

§ 1.1.15 Other Initial Information on which this Agreement is based:

All Work for this Project shall be in compliance with the public bidding requirements as set forth in the Owner's Code of Ordinances and the Wisconsin Statutes.

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2017, which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 shall mean the Construction Manager. THE GENERAL CONDITIONS ARE SUBJECT TO FURTHER EDITING BY VILLAGE

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design,

price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project. Trade subcontracts will be publicly bid and awarded by the Village to the trade subcontractors and may be assigned to the Construction Manager by the Village. The Construction Manager will be responsible for the project completion and cost for the subcontracts assigned to it under the Guaranteed Maximum Price Amendment.

EDITOR'S NOTE: The Village will limit the Construction Manager to self-performance of a maximum XX% of the entire value of the project. Any self-performance of a portion of the project shall only occur if Construction Manager submits a sealed bid as part of the public bidding project and prior to receipt of any other bids. A Construction Manager that intends to submit any bids for work shall not participate in the bid openings, evaluation and award process for those component parts.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them. EDITOR'S NOTE: OWNER PROCUREMENT NEEDS TO BE ADDRESSED HERE FOR POSSIBLE TAX EXEMPT PURCHASES

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities. Notwithstanding any other provision under this Agreement, to the extent that disclosure of any information or record

related to the Work or this Agreement as required by the public records laws of the State of Wisconsin, the Owner shall not be liable or responsible for any disclosure or transmission of any such information.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

« »

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

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

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based. Acceptance of the Guaranteed Maximum Price Amendment shall require approval by the Owner's Village Board.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner’s execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

ARTICLE 4 OWNER’S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner’s objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201-2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 **Legal Requirements.** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™-2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager’s Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

« »

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager’s Consultants and Subcontractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

« »

Individual or Position

Rate

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within « » (« ») months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager’s compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager’s invoice. Amounts unpaid « » (« ») days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.

(Insert rate of monthly or annual interest agreed upon.)

« » % « »

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager’s performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager’s Fee.

§ 6.1.2 The Construction Manager’s Fee:

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

«1.95 % of Cost of the Work »

§ 6.1.3 The method of adjustment of the Construction Manager’s Fee for changes in the Work:

« »

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

« »

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed « » percent (« » %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

« »

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

« »

§ 6.2 Guaranteed Maximum Price

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

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

§ 6.3.3 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to “cost” and “fee,” and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner’s prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms “cost” and “costs” as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term “fee” shall mean the Construction Manager’s Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager’s Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager’s Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

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

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

§ 7.2 Labor Costs

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

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

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

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

« »

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

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

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

§ 7.3 Subcontract Costs

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

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

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

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

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

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

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

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

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

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

§ 7.6 Miscellaneous Costs

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

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

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

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

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

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

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

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

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

§ 7.6.7 Costs of document reproductions and delivery charges.

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

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

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

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

§ 7.7 Other Costs and Emergencies

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

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

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

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

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

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not To Be Reimbursed

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

- .1 Salaries and other compensation of the Construction Manager’s personnel stationed at the Construction Manager’s principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager’s principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager’s capital expenses, including interest on the Construction Manager’s capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

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

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS Editor's note: subject to further revisions depending on whether there will be sealed bidding by Construction Manager.

§ 9.1 All Work shall be publically bid in accordance with Owner's Code of Ordinances and the Wisconsin Statutes. Those portions of the Work that the Construction Manager does not perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Village that may be assigned to the the Construction Manager. The Owner will designate specific process for public bidding. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

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

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

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

« »

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the « » day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the « » day of the « » month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the

amount certified shall be made by the Owner not later than « » (« ») days after the Architect receives the Application for Payment.

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

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

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

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

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

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

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

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

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;

- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner’s auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

§ 11.1.8 Retainage

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

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

« »

§ 11.1.8.1.1 The following items are not subject to retainage:

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

« »

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

(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

« »

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

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

« »

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

§ 11.1.10 Except with the Owner’s prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

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

§ 11.1.12 In taking action on the Construction Manager’s Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner’s auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

« »

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.3 Interest

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

« » % « »

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager’s Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

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§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

- Arbitration pursuant to Article 15 of AIA Document A201–2017
- Litigation in the Racine County Circuit Court, Racine, Wisconsin. Governing law shall be the State of Wisconsin.
- Other: *(Specify)*
- << >>

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment

§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager for the Owner’s convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager’s Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager’s Fee is stated as a fixed sum in that

- Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

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

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

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

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

« »

§ 13.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Construction Manager’s Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than \$1,500,000 per occurrence and a \$2,000,000 per project General Aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than \$1,500,000 per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers’ Compensation at statutory limits and Employers Liability with policy limits not less than in an amount not less than \$100,000 each accident, \$500,000 Disease Policy Limit and \$100,000 Disease Each Employee. , no policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Two Million Dollars » (\$ \$2,000,000.00) per claim and Three Million Dollar » (\$ \$3,000,000.00 ») in the aggregate.

§ 14.3.1.6 Other Insurance

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

| Coverage | Limits |
|----------|--------|
| | |

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner, its officers, employees, departments, agents and officials, as an additional insured by specific endorsement for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations. Construction Manager shall maintain insurance issued by an insurer with a rating of at least "A-" and in the financial size category of at least "VII" as established by the A.M. Best Company and licensed to do business in the State of Wisconsin. The endorsement shall require the insurer to provide at least thirty (30) days prior written notice to the Owner of any cancellation of such policy.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents and in accordance with Section 14.3.1.7.

Bonds are to be determined.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™-2019 Exhibit B, and elsewhere in the Contract Documents.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

« »

§ 14.5 To the fullest extent permitted by law, the Construction Manager shall defend, indemnify and hold harmless the Owner and its elected officials, officers, employees, agents and consultants from and against all claims, damages, losses and expenses, including attorney's fees, arising out of this Agreement and/or services and Work performed or controlled by Construction Manager.

§ 14.6 Other provisions:

« »

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement: FORMS ARE SUBJECT TO REVISION BY VILLAGE

- .1 AIA Document A133™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™-2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™-2019, Exhibit B, Insurance and Bonds
- .4 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .5 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

« »

.6 Other Exhibits:
(Check all boxes that apply.)

[] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:
(Insert the date of the E234-2019 incorporated into this Agreement.)

« »

[] Supplementary and other Conditions of the Contract:

| Document | Title | Date | Pages |
|----------|-------|------|-------|
| | | | |

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

« »

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

RILEY CONSTRUCTION COMPANY, INC.

CONSTRUCTION MANAGER (Signature)

« »« »

(Printed name and title)

OWNER

VILLAGE OF CALEDONIA

By: _____
James Dobbs, Village President

Attest: _____
Joslyn Hoeffert, Village Clerk

Approved:

By: _____

Bane Thomey, Village Finance Director



**Amendment No. 1 to
AIA Document A133-2019
Between the Village of Caledonia, Wisconsin and Riley Construction Company, Inc.**

On an even date herewith, the parties hereto have entered into the contract set forth in section 2.a, below. This Amendment No. 1 modifies this contract as set forth herein. This Amendment No. 1 is made and entered into as of this ___ day of November, 2021 by and between:

The Village of Caledonia (the "Owner"), a Wisconsin Municipal Corporation with its Village Hall located at 5043 Chester Lane, Racine, WI 53402; and

Riley Construction Company, Inc., a Wisconsin Corporation with its principal address located at 5301 99th Avenue, Kenosha, WI 53144 ("Riley" or "CM").

(the "Amendment No. 1").

Introduction

The Owner wishes to construct a new Public Safety Building for Police and Fire usages of approximately 52,000 square feet. The construction of the new facility immediately adjacent to the Village Hall located at 5043 Chester Lane, Racine, WI 53402 is hereinafter referred to as the "Project." FGM Architects, Inc. is the contracted Architect will perform architectural services (the Architect"). Riley is defined as the CM will perform construction management services as constructor as needed by the Owner.

The Owner wishes to retain the services of CM, all under the terms and conditions of the Standard Form Contracts (defined below) entered, as revised by this Amendment No. 1. Owner and CM acknowledge and agree that the Standard Form Contracts were written for the purpose of undertaking and completing private construction projects and were not intended, and were not written for, municipal construction projects such as Owner's Project which is the subject of this Amendment No. 1.

Municipal construction projects must be undertaken in compliance with special laws, rules and regulations, none of which are sufficiently addressed in the standard form contracts. For example, public bidding provisions are requirements as set forth in Wisconsin Statutes, Chapter 66. For this reason, the Standard Form Contracts are being substantially modified and amended in this Amendment No. 1, as described herein.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN, THE ABOVE-NAMED PARTIES AGREE AS FOLLOWS:

1. **Introduction is Correct.** The above "Introduction" is true and correct and is hereby incorporated herein by reference.

2. **Contracts Included.** The underlying contractual provisions for this Amendment No. 1 are contained in the following documents and Standard Form Contract executed on even date hereof and along with this Amendment No. 1 are referred to collectively as the “Agreement”:

a. The Standard Form Contracts shall mean the following:

(1) The “Standard Form of Agreement between Owner and Construction Manager as Constructor” being known as AIA Document A133-2019; and

(2) The “General Conditions of the Contract for Construction,” being known as AIA Document A201-2007, except as modified by the other Standard Form of Contracts, by the approved plans, specifications and bidding documents as approved by Owner, the competitive bidding requirements of the Wisconsin Statutes and of the Owner, and this Amendment No. 1. The Owner reserves the right to modify the General Conditions in the Owner approved specifications and documents for the bidding of the Project. The Owner does not waive any rights it may have to limits of liability under Wisconsin law, whether statutory or common law.

b. The Village of Caledonia Department of Public Safety Facility Technical Proposal Response submitted to the Village of Caledonia by CM. dated October 14, 2021 and Addendum number 1 thereto dated _____, 2021 and the Owner’s Request for Proposals dated September 24, 2021 and Addendum dated October 7, 2021 are incorporated herein by reference.

DRAFTER'S NOTE: Include any other necessary referenced documents.

3. **General Modification.**

a. The terms and provisions contained in the numbered paragraphs of this Amendment No. 1 are intended to amend, modify and override the Standard Form Contracts set forth above in the manner and fashion indicated in each such numbered paragraph. Under the laws of the State of Wisconsin, however, there may be other laws, rules and regulations applicable to this Project by virtue of being a municipal construction project that are not expressly reflected or dealt with in this Amendment No. 1. The Owner and CM accordingly expressly agree that at all times this Amendment No. 1 shall be interpreted and construed so that it is, and/or will be in compliance with all laws rules and regulations applicable to the Project and this Agreement shall be interpreted by the parties even after its execution and effective date as may be necessary to be in compliance with all such laws rules and regulations applicable to this Project.

b. If the duties in the Standard Form Contract require with the advice of one to the other, the CM agrees to consult with the Architect in fulfillment of those duties.

DRAFTER'S NOTE: The below section is subject to additional revision based on scope.

4. **Construction Management Services.** The CM shall furnish the following services for the construction of a new facility, previously defined as the Project herein. The Owner and CM are committed to working together to achieve a cost-efficient, economical design for the Project. The CM shall furnish the following services, in addition to the services set forth in the standard contract, during the design and construction of the Project at the Project site:

a. Assist Owner and Architect in all aspects of the design phase so that Architect can prepare plans and specifications and bidding documents necessary for the Project.

b. In conjunction with the Architect, prepare all documents necessary for the Project Manual, including but not limited to, the bid packages, contract, invitation to bid, instructions to bidders, contractor's bid form, payment and performance bonds, general Project requirements and host such documents on its website for access by potential bidders subject to review and approval by the Village Public Services Director.

c. Assist in the advertisement for public bid in the appropriate legal publication(s) and assist the Owner in selecting the lowest responsible bidders on each of the bidding packages as set forth below.

d. Assist in the procurement of all required Local permits.

e. Supervise the construction of the Project and its successful completion.

f. Assist with system startup and instruction and creation of operation and maintenance manual.

g. Other services as set forth in the Request for Proposals.

5. **Additional Services.** Unless provided by the contractors as part of a bid package, CM will be responsible for arranging or securing, at Owner's cost and with the Owner's prior approval:

Building permit, occupancy permit

Dumpsters and trashcans

Weather protection

Arrange service cleaning (Drafter's Note—needs definition)

Progress photos

Arrange Site fencing

Temporary toilets

Enclosures

If needed, upon mutual agreement with Owner, Winter work (Drafter's Note—needs definition)

6. **Excluded Services.** The following services are not included under this Amendment No. 1:

Drafter's Note-TBD

7. **Public Bidding.** All of the work for the Project shall be bid out and awarded to multiple contractors pursuant to and in compliance with the terms and provisions of the public bidding procedures contained in Sections 62.15 and 66.0901 of the Wisconsin Statutes as well as any other applicable provisions of the laws of Wisconsin and the Owner's Code of Ordinances.

DRAFTER'S NOTE: The below section is subject to additional revision based on scope.

8. **Bidding Logistics.** The public bidding process for the contracts for the Project shall be undertaken as follows:

a. The Owner shall determine after consultation with the Architect and CM the categories and specifications for each contract to be advertised and let for bids. The CM and Architect, in consultation with the Owner, shall prepare the bid documents and specifications, and advertisements, subject to approval by the Owner. CM will file both performance and payment bonds with the Owner per Section 779.14 of the Wisconsin Statutes, and comply with any applicable provisions of the laws of Wisconsin and any applicable ordinances of the Village of Caledonia.

b. Each lowest responsible bidder that is awarded a subcontract for the Project shall be approved in writing by the Owner.

c. The CM, in consultation with the Architect and Owner, shall prepare a separate written agreement for each contractor for the Project who shall contract directly with the CM. The Owner shall be responsible for paying the monies due to the CM in accordance with the agreement between the Owner and CM, as may be amended from time-to-time, and the CM will pay the subcontractors under the contracts awarded for this Project in accordance with the Project Manual.

d. The CM may not bid on any subcontract or any portion of the work for the Project. **DRAFTER'S NOTE: MAYBE BE REVISED WITH PERCENT LIMITATIONS AND REQUIRE SEALED BIDS**

e. Pursuant to standard public bidding procedures, all bids submitted by the bidders for a contract shall be sealed and shall be delivered to Owner and not to the Architect or CM, and shall be opened by Owner on the date and at the time indicated in the advertisements for the bids. The CM, in consultation with the Architect, shall prepare bid tabulations sheets and assist the Owner in determining the lowest responsible bidder for each subcontract.

f. All of the documents and procedures used to obtain bids for the contracts for the Project shall be approved by the Owner.

g. Once all bids for the contracts for the Project are opened and evaluated by the Owner, the Owner shall then in its sole discretion determine whether to proceed with the Project, cancel the Project, or amend the Project.

9. **Purchasing.** The Owner is exempt from sales taxes.

10. **Compensation.** The Owner shall only be required to pay and/or reimburse CM for the costs for the Project as set forth below.

a. **Compensation and Payments for CM.** For the CM, the Owner shall compensate the CM in accordance with the agreement between the Owner and CM, including the Guaranteed Maximum Price Amendment.

b. **Termination.** In the event of termination of the contracts prior to completion:

(1) If the contracts are terminated after completion of the Design Phase, but prior to commencement of the Construction Phase, the Owner shall be entitled to a license from the CM for use of the Design.

(2) If the contracts are terminated during the Construction Phase, the CM shall be entitled to be paid a reasonable amount for services performed or furnished, expenses incurred, and reasonable overhead and profit for the work performed.

c. Any provisions contained in the Standard Form Contracts contrary to the above-cited financial obligations of the Owner to the CM are deleted from the Standard Form Contracts by this Amendment No. 1. In keeping with the limitations of the Owner's financial obligations under this Amendment No. 1, with respect to all costs otherwise payable by the Owner under any Owner-cost provisions contained in the Standard Form Contracts, whether to incur and pay such costs shall be at the sole discretion of Owner.

11. **Governing Law and Venue.** This Agreement shall be governed, controlled, interpreted and construed by and under the laws of the State of Wisconsin. Venue for any legal action arising under and/or pertaining to this Agreement shall solely and exclusively be Racine County Circuit Court in Racine County, Wisconsin. All provisions of the Standard Form Contracts pertaining to arbitration are removed by this Amendment No. 1 from the said Standard Form Contracts.

12. **Owner Decisions.** The decisions required of Owner under this Amendment No. 1 shall be communicated solely by the Village of Caledonia Administrator or designee. The CM understands and agrees that any decisions of the Owner deemed significant by the Village Administrator shall be submitted to the Village of Caledonia Board of Trustees for a final decision on the matter.

13. **Liability Insurance.** With respect to the liability insurance that is required to be obtained by the CM under the provisions of the Standard Form Contracts for the Project, the Owner, its elected officials, officers, employees and agents shall be named as an additional insured on the policy by specific endorsement. Certificate(s) of insurance shall be provided to Owner prior to commencement of work on the Project.

14. **Independent Contractor.** The Owner retains the CM as an independent contractor. The CM is not an employee of the Owner and is free to contract with other entities. The CM shall be responsible for selecting the means and methods of performing the work under these Contracts and this Amendment No. 1. The CM shall not at any time or in any manner represent that the CM or any of the CM’s agents or employees are in any manner agents or employees of the Owner. The CM shall be exclusively responsible for the CM’s own FICA payments, workers compensation payments, unemployment compensation payments, withholding amounts, and/or self-employment taxes, if any such payments, amounts, or taxes are required to be paid by law or regulation.

15. **Public Records.** The books, records, and documents of the CM relating to these Contracts and this Amendment No. 1 shall be subject to the Open Records laws of the State of Wisconsin. In the event the CM receives a request to release data, the CM will immediately notify the Owner and the Owner will give the CM instructions concerning the release of the data to the requesting party before the data is released.

16. **Compliance with Laws and Regulations.** In providing services hereunder, the CM shall abide by all statutes, ordinances, rules and regulations pertaining to the provision of the work or services to be provided for the Project. Any violation shall constitute a material breach of this Agreement and entitle the Owner to immediately terminate this Agreement. Upon such termination, the Owner shall be entitled to offset costs due to such termination by any amounts then owed to the CM.

IN WITNESS WHEREOF this Amendment No. 1 is being executed at Caledonia, Wisconsin and made effective as of the date first written above.

OWNER

CONSTRUCTION MANAGER

Village of Caledonia, Wisconsin

Riley Construction Company, Inc.

By: James R. Dobbs
Village President

By: _____
Title: _____

Attest:

By: Joslyn Hoeffert
Village Clerk

DRAFT AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Village of Caledonia New Public Safety Building
5043 Chester Ln.
Caledonia, WI 53402

Description: The project consists of a new Public Safety Building for Police and Fire of approximately 52,000 square feet.

THE OWNER:

(Name and address)

VILLAGE OF CALEDONIA
5043 Chester Lane
Racine, WI 53402

THE ARCHITECT:

(Name and address)

FGM Architects Inc.
219 N. Milwaukee St., Suite 325
Milwaukee, WI 53202

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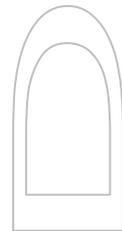
**DRAFT SUBJECT TO
ADDITIONAL
REVISIONS BY
VILLAGE**

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

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



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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, any certifications required by the bid documents, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect with the approval of the Owner. The Contract Documents shall include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids, the Contractor's bid, subcontractor bids or portions of Addenda relating to bidding requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract, together with the performance and payment bonds, represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means all of the Contractor's obligations under the contract documents, including the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project. However, no more than _____ () percent of the Work may be self-performed by the Contractor and the remaining percentage of Work shall be performed by subcontracts between the Contractor and separate sub-contractors who were awarded portions of the Work on the Project by competitive public bid in accordance with Wisconsin law. In any event that there is a conflict in the Contract Documents that provides for the self-performance of Work by the Contractor, this provision shall govern to prohibit such self-performance in excess of the maximum percentage.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner, through subcontracts with separate contractors who were awarded parts of the Work on the Project by competitive public bid in accordance with Wisconsin law.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.1.9 Contractor

The term “Contractor” as used herein means the General Contractor or the Construction Manager at risk retained by the Owner.

§ 1.1.10 Project Manual

The Project Manual is a volume assembled for the Work that includes, but is not limited to the Contract Documents and all Exhibits thereto.

§ 1.1.11 Provide

When the word “provide”, including derivatives thereof, is used, it shall mean to properly fabricate, complete, transport, deliver, install, erect, construct, test and furnish all labor, materials, equipment, apparatus, appurtenances, and all items and expenses necessary to properly complete in place, ready for operation or use under the terms of the specifications and related Contract Documents.

§ 1.1.12 Surety

The surety is any firm or corporation that has executed as surety the Contractor’s Performance Bond and Payment Bond guaranteeing the performance of the Contract.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor, and subcontractors, and items which are reasonably inferable therefrom. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. In the event of a conflict or inconsistency in or among the Contract Documents, the Contractor shall, unless directed otherwise in writing by the Owner, provide the greatest quantity, highest quality, highest degree of safety, and most stringent material, equipment, or Work.

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

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. The use of the singular or plural, or the use of a male or female pronoun, is solely for the purpose of convenience and the Contract documents shall be read to include the male and female, and the plural where such meaning is appropriate.

§ 1.2.4 In the event of discrepancies or conflicts among or between the contract Documents or observable conditions exist, the Contractor shall request an interpretation in writing from the Owner and Architect before proceeding with the Work. If the Contractor fails to request such an interpretation from the Architect, it is presumed that the more stringent, better quality or higher quantity requirement is included in the Work. The Contractor shall be responsible for the cost and installation of such requirement at no additional cost to Owner. Before ordering any materials or doing any Work, the Contractor shall verify measurements at the Project site and shall be responsible for the correctness of such measurements. Any difference which may be found shall be submitted to the Architect for interpretation before proceeding with the Work as a condition precedent to any claim for an increase in the Contract Sum or GMP.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

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

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

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect’s consultants.

§ 1.6 Notice

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

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

§ 1.7 Digital Data Use and Transmission

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

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite

AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to represent the Owner with respect to all matters requiring the Owner's approval or representation. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

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

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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

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

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

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

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

ARTICLE 2.6 OWNER'S RIGHT TO AUDIT

§ 2.6.1 The Contractor shall keep full and accurate records of all labor and material costs incurred and items billed in connection with the performance of the Work, which records shall be open to audit by the Owner or its authorized representatives during performance of the Work and until three years after Final Payment. In addition, the Contractor shall include a provision in all subcontracts relating to the Work that any and all Subcontractors will keep accurate records of costs incurred and items billed in connection with their work and that such records shall be open to audit by the Owner or its authorized representatives during performance of the Work and until three years after each Subcontractor's final completion.

ARTICLE 3 CONTRACTOR

§ 3.1 General

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

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

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, correlated personal observations with requirements of the Contract Documents, and has satisfied itself as to the nature and location of the work, the general and local conditions, including those bearing upon access (including partial or total restriction in access), transportation, disposal, staging, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, ground water table or similar physical conditions of the ground, the character, quality and quantity of existing conditions to be encountered, the character of equipment and facilities needed prior to and during the prosecution of the work and all other matters which can in any way affect the work or the cost thereof under this Contract. Any failure by the Contractor to acquaint itself with all the available information concerning these conditions will not relieve the Contractor from any obligations to comply with the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Architect and Owner in writing. While the Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations any nonconformity discovered by or made known to the Contractor shall be reported promptly to the Architect and Owner in writing.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized, or in the exercise of ordinary care should have recognized, such error, inconsistency, omission or difference and failed to report it in writing to the Architect and Owner.

§ 3.2.5 In all cases of interconnection of the Work with existing facilities, Contractor shall field measure and verify at the site all dimensions relating to such existing facilities. Any conflicts in the Work and the existing facilities which could have been mitigated by the Contractor's obligation to verify the dimensions of the existing facilities shall be promptly rectified by the Contractor at its own expense.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety, good construction practices to accomplish the installation, including manufacturer's installation procedures and warranty implications, and shall be solely

responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe or in accordance with good construction practice or affects the warranties, the Contractor shall give timely written notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

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

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work. If for any reason Work in place does not comply with the Contract Documents, the Contractor shall immediately correct the Work before proceeding with subsequent Work.

§ 3.3.4 The Contractor shall coordinate inspections by governmental authorities having jurisdiction over the Work.

§ 3.3.5 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

§ 3.4 Labor and Materials

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

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other subcontractors and their employees carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. The Contractor shall require employees, and subcontractors and their employees or whom it is responsible working at the jobsite to participate in a mandatory drug testing program to the extent permitted in union agreements administered by the Contractor and required by the Owner. The costs for drug testing, reports and other related costs are the responsibility of the Contractor.

§ 3.4.4 the Contractor shall only employ labor on the Project or in connection with the Work capable or working harmoniously with all trades, crafts and any other individuals associated with the Project. The Contractor shall also use its best efforts to minimize the likelihood of any strike, work stoppage or other labor disturbance. If the Work is to be performed by trade unions, the Contractor shall make all necessary arrangements to reconcile any conflict between the Contract Documents and any agreements or regulations of any kind at any time in force among members of councils which regulate or distinguish what activities shall or shall not be included in the Work of any particular trade.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents and that the Work will be free from faults and defects and in conformance with Contract Documents. The Contractor's warranty will not be restricted by the limitations of any manufacturer or subcontractor warranty nor shall the warranty be affected by the specification of any product or procedure, unless the Contractor objects promptly to such product or procedure and advises the Architect in writing of possible substitute products or procedures which

will not affect the warranty. Work, materials or equipment not conforming to these Requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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

§ 3.6 Taxes

§ 3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes and rules and regulations governing the design of the Project. However, if the Contractor observes that portions of the Contract documents are at variance therewith, the Contractor shall promptly notify the Architect and Owner in writing, and necessary changes shall be accomplished by appropriate Change Order.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear any penalties assessed and the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly, within twenty-four (24) hours, provide notice to the Owner and the Architect before conditions are disturbed and in no event later than seven (7) days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

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

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall be satisfactory to the Owner. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case. The Contractor's Project Manager and superintendent may not be removed from the Project by the Contractor, absent death, disability or termination of employment without Owner's written approval.

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

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. Updated schedules do not constitute an amendment of the Contract Time set forth in the Contract Documents. The Contract Time shall be amended only by written Change Order. Failure of the Owner or Architect to object to a submitted schedule that exceeds time limits current under the Contract Documents shall not relieve the Contractor of its obligations to meet those time limits, nor shall it make the Owner or Architect liable for any of the Contractor's damages incurred as a result of increased construction time or not meeting those time limits. Similarly, failure of the Owner or the Architect to object to the Contractor's schedule showing performance in advance of such time limits shall not create or imply any rights in favor of the Contractor for performance in advance of such time limits.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform and complete the Work in general accordance with the most recent approved schedules submitted to the Owner and Architect. Should the Contractor fail to adhere to the approved construction schedule(s), the Contractor shall immediately, at its own expense, take such measures, at its own expense, so as to fully correct such failure, including addition of personnel and/or equipment, overtime and/or additional shifts. The Owner shall be entitled to rely on Contractor's schedules for coordination of its own activities, as well as the activities of other contractors working at the Project site or on the Project.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals (all collectively referred to herein as "Record Documents"). These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.11.1 Plans and sections of all concealed work, particularly concealed piping and conduit, and deviations from conditions shown on the Contract Drawings, shall be shown and dimensioned on the "Record Documents". Contractor shall develop layout drawings for all concealed work that is schematically indicated on Contract Documents.

§ 3.11.2 The Contractor will make the Record Documents available for inspection by the Architect upon reasonable notice. Adequate maintenance of the Record Documents shall be a prerequisite to certification of the Contractor's application for payment.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect without action. For standard product selections, color selections, and simple shop drawings (defined as less than three (3) pages, the Architect and its consultants shall have fifteen (15) working days for review of such materials. For complex shop drawings (totaling more than three (3) pages in size), the Architect and its consultants shall have twenty (20) days for review of such material or such longer time as the Architect, in its professional judgment, deems necessary.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's review of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect, with prior approval of the Owner, and such approval shall be deemed to have been given if Owner does not reject Contractor's submittal in writing within seven (7) calendar days after Contractor sends the submittal to Architect, has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

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

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

§ 3.12.11 After the award of the Contract, a request by the Contractor for a substitution of materials or equipment in place of that specified in the Contract Documents will be considered only under one or more of the following conditions:

1. Required for compliance with interpretation of code requirements or insurance regulations then existing.
2. Unavailability of specified products, through no fault of the Contractor.
3. Subsequent information discloses inability of specified products to perform properly or to fit in designated space.
4. Manufacturer/fabricator refuses to certify or guarantee performance of specified product as required.
5. When it is clearly seen, in the judgment of the Architect and with the owner's approval that a substitution would be substantially to the Owner's best interests, in terms of cost, time or other considerations.

Substitution requests shall be written, timely and accomplished by adequate technical and cost data. Requests shall include a complete description of the proposed substitution, name of the material or equipment for which it is to be

substituted, drawings, cuts, performances and test date, and any other data of information necessary for a complete evaluation by the Architect. Requests for substitutions require the approval of the Architect and the Owner.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment. The Contractor shall provide all temporary protection necessary to ensure the safety of persons in or about the Project site.

§ 3.14 Cutting and Patching

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

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

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project. Throughout the progress of the Work, the Contractor shall continually remove from the Project Site and any adjacent property, waste, tools, equipment, storage facilities, machinery, trailers, vehicles and surplus materials no longer required for the diligent prosecution of the Work, so as to maintain as orderly and contained a Work Site as reasonably possible at such state of the Work.

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

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor waives any right on contribution against and shall defend, indemnify and hold harmless the Owner, Architect, Architect's consultants, and their directors, officers, members, agents and employees (hereinafter "Indemnitees") of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, caused by or arising from the acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts. The purchase of insurance by the Contractor with respect to the obligations required in Article 3.18 shall in no event be construed as fulfillment or discharge of such obligations. The Contractor's indemnity obligation is in addition to, and cumulative of, any other obligations provided by law or contract, all of which are preserved to the Indemnitees without diminution.

§ 3.18.3 "Claims, damages, losses and expenses" as these words are used in this Contract shall be construed to include, but not be limited to (1) injury of damage consequent upon the failure of or use or misuse by Contractor, its Subcontractors, agents, servants or employees, of any hoist, rigging, blocking, scaffolding, or any and all other kinds of items of equipment, whether or not the same be owned, furnished or loaned by Owner; (2) all attorneys' fees and costs incurred in defense of the claim or in bringing an action to enforce the provision of this Indemnity of any other indemnity contained in the Contract Documents; and (3) all costs, expenses, lost time, opportunity costs, et. Incurred by the party being indemnified or its employees, agents or consultants.

§ 3.18.4 Only to the extent prohibited by Wisconsin law the indemnification obligations of the Contractor under this Article 3.18 shall not extend to the liability of Owner, any Owner's Representative, or the Architect, or their agents, consultants or employees, arising out of their own negligence.

§ 3.19 If the Work is to be performed by trade unions, the Contractor shall make all necessary arrangements to reconcile, without delay, damage, or cost to the Owner and without recourse to the Architect or the Owner, any conflict between the Contract Documents and any agreements or regulations of any kind at any time in force among members of councils which regulate or distinguish what activities shall not be included in the work of any particular trade.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement. The term "Architect" means the Architect or Architect's authorized representation.

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

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site as agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not

have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

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

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts for Work completed in accordance with the Contract Documents.

§ 4.2.6 The Architect has authority to recommend to the Owner that the Owner reject Work that does not conform to the Contract Documents. Subject to Owner's written approval, whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work nor shall the Architect be responsible for defects or deficiencies of the Contractor, its Subcontractors, or suppliers resulting from their failure to complete the Work in accordance with the Contract Documents.

§ 4.2.7 The Architect will review or take other appropriate action only upon the Contractor's submittals such as Shop Drawings, Product Data, and Samples that are required by the Contract Documents, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of specific details, equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. Regardless of the review, notations, or mark-ups of the Architect on any submittal, shop drawing or product data, neither the Architect nor its consultants shall be responsible for any aspect of the submittal, shop drawing or product data which does not comply with the requirements of the Contract Documents, responsibility for which rests solely with the Contractor.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may with prior approval of the Owner, order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests

will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if reasonably inferable from the Contract Documents as being necessary to produce the intended results.

§ 4.2.14 When submitted in accordance with the Contract Documents, the Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information. Requests for information which do not conform to the requirements of the Contract Documents, or whose answer is reasonably obtainable or inferable from the Contract Documents, may be returned by the Architect without action.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site in accordance with the public bidding requirements of the Wisconsin Statutes and local ordinances. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

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

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

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract and subcontracts to the lowest qualified bidder, shall notify the Owner and Architect of the persons or entities for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design.

§ 5.2.2 All subcontracts shall be in writing and shall be assignable by the Contractor to the Owner upon termination for cause pursuant to the terms of the Contract Documents. All subcontracts shall contain a provision that the subcontract is intended to directly benefit the Owner and the Owner is a third-party beneficiary of such subcontract. The Contractor shall not contract with a person or entity to whom the Owner or Architect has made reasonable and timely objection as to qualifications. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection. All Work shall be awarded to subcontractors by public bidding in accordance with Wisconsin law and local ordinances.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract

agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained in accordance with public bidding laws.

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

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

§ 6.2 Mutual Responsibility

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

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

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

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

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

§ 6.3 Owner's Right to Clean Up

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

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 The Owner may, without invalidating the contract and without notice to the surety, direct changes in the Work. Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone, subject to the Owner's approval, and such approval shall be deemed to have been given if Owner does not reject such change in a writing delivered to Contractor within seven (7) calendar days after Architect issues the order for change.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of any adjustment in the Contract Sum; and
- .3 The extent of the any adjustment in the Contract Time.

§ 7.2.2 Any changes which authorize or necessitate an increase or decrease in either the cost of the contract by \$10,000 or more or increasing the cost by 15% of the original contract price pursuant to Wis. Stat. Sec. 62.15(1c), whichever is less, or the time of completion of the Work by thirty (30) days or more may only be made upon the written authorization of the Owner and only upon the written determination of the Owner that:

1. The circumstances necessitating the change were not reasonably foreseeable at the time the contract was signed; or
2. The change is germane to the original contract as signed; or
3. The change order is in the best interest of the Owner and is authorized by law.

§ 7.2.3 No payment for Change in the Work shall be made until such Changes has been memorialized in an executed Change Order and the Change has been implemented into the Work. Partial payments on partially implemented changes shall be paid similarly as partial payment on base contract Work.

§ 7.2.4 Increased quantity clauses. This Contract provides for increasing the quantity of construction required in the original contract by an amount not to exceed 15 percent of the original contract price.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes

in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others but only if approved in advance by Owner;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

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

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect in writing of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work shall be included in Applications for Payment based on 7.3.7 above. For any portion of such cost that remains in dispute, the Architect will make an interim determination for purposes of monthly certification for payment for those costs. That determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a claim in accordance with Article 15.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

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

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement or the Notice to Proceed authorizing the contractor to commence Work.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time. Unless provided elsewhere in the contract Document, Final Completion shall be completed within thirty (30) days following Substantial Completion.

§ 8.3 Delays and Extensions of Time

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

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

§ 8.3.3 The Contractor shall not be entitled to an increase in the Contract Sum as a result of any delays in the progress of the work. The Contractor's sole remedy for delay shall be an extension of Contract Time. In no event shall any delays or extensions of time be construed as cause of justification for payment of extra compensation to the Contractor. Any claims for an increase of the Contract Time shall be made in writing to the Architect within seven (7) days of the event causing the delay.

§ 8.3.4 Extension of Contract Time resulting from Changes in the Work shall be by Change Order. Whenever the Contractor seeks an adjustment in the Contract Time as part of a Claim or Change Order, the Contractor shall justify the request with proper reference to the approved construction schedules and submitted updated schedules. All

executed Change Orders shall be deemed to include adjustments in the Contract Time, if any, resulting from the underlying Change in the Work.

§ 8.4 If the Contractor, but for a delay not within its control, would have completed the Work prior to the time set forth in the project schedule, the Contractor shall not be entitled to any recovery of damages arising out of any event of delay which prevented such early completion of the Work.

§ 8.5 The stated milestone schedule dates for commencement of the Work, Substantial Completion of the Work and Final Completion of the Work, are material inducements to Owner in entering into this Agreement and all time limits stated in the Contract Documents are of the essence of this Agreement.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

The Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. The Contractor shall prepare the schedule of values using actual bids or negotiated proposals for various components of the Work. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. **Approval of the schedule of values (and revisions thereto) by the Architect shall be an absolute prerequisite to certification of the Applications for Payment.** Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten (10) days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay. However, this paragraph will not apply to routine retainage the Contractor intends to withhold from the Subcontractor pursuant to the subcontract.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site. Stored materials may be included in the Applications for Payment provided the Architect can verify the cost and the existence of such stored materials. The Contractor shall submit requisitions from suppliers and Subcontractors to substantiate the amounts requested on the Application for Payment for materials or equipment stored on or off site.

Applications for Payment for stored materials must meet the following criteria: 1) evidence of insurance is required for the stored materials; 2) the materials must be produced or stored for this Project only; and 3) the materials must be stored separately from other inventory and identified for this Project only.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work. Although title to the Work covered by partial payments made shall pass to the Owner, this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of the materials and Work upon which payments have been made, or the restoration of any damaged Work, or as a waiver of the right of the Owner to require the fulfillment of all terms of the Contract Documents. A Sworn "Contractor's Affidavit" shall be submitted with each payment request in sufficient form for the Owner to determine Contractor's right to payment and compliance with the Wisconsin Mechanic's Lien law. Each payment request shall include properly executed waivers of lien in conformity with information set forth on a properly completed Contractor's Affidavit. In the event that the Owner is satisfied with Contractor's payment procedures, the Owner may accept partial waivers of lien of subcontractors and suppliers who were included in the immediate proceeding payment. The Contractor shall submit waivers on a current basis, but the Owner may allow Subcontractors and suppliers to be not more than one payment late with their partial waivers.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven (7) days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect will withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

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

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

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.5.5 At the election of the Owner, in addition to the Owner's remedy described in Subparagraph 9.5.1 above, a sufficient sum may be retained by the Owner as determined to be necessary for the purpose of setting aside a reasonable reserve to fully correct the loss or to protect the Owner from the loss for the items above set forth.

§ 9.5.6 The Contractor shall submit lien waivers and sworn statements in accordance with the terms of the Contract Documents. The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner not later than the time of payment. The Contractor shall keep the Project free and clear of all liens which arise from the Work. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certifications of Payment have been previously issued and payments made by the Owner, will be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, its subcontractors, material supplies, or other persons or entities making a claim by reason of having provided labor, materials or equipment relating to the Work. To the extent of payments made by Owner, the Contractor shall appear, defend, indemnify and hold harmless the Owner and Indemnitees, at Contractor's sole expense, against any and all costs resulting from liens, claims, actions, law suits or proceedings brought against Owner or its property filed in connection with the Work, the Project site or any improvements thereon. To the extent of payment made by Owner, the Contractor agrees to appear, defend, indemnify and hold harmless the Owner and Indemnitees against any such liens or claims of lien and agrees to pay any judgement or lien resulting from any such actions, lawsuits or proceedings.

§ 9.5.7 The Owner shall release any payments withheld due to a lien if the Contractor obtains security acceptable to the Owner or a lien bond which is 1) issued by a surety acceptable to the Owner, 2) in form and substance satisfactory to the Owner, and 3) in an amount not less than one hundred fifty percent (150%) of such lien claim or such other amount as may be reasonably required by the Escrow Agent, if any, to insure over such lien claim. By posting a lien bond or other acceptable security, the Contractor shall not be relieved of any responsibilities or obligations under this Section, including without limitation, the duty to defend, appear, indemnify and hold harmless Owner and Indemnitees. The Cost of any premiums incurred in connection with such lien bond and security shall be the responsibility of the Contractor and shall not be reimbursable to the Contractor as a Cost of the Work or otherwise.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor. Notwithstanding Article 4.2.4, the Architect and Subcontractor may communicate directly on the matters covered by this paragraph.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven (7) days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

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

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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

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

§ 9.6.8 The Owner will withhold ten percent (10%) from the periodic Progress Payments as retention. Payment of retention shall be requested with the Contractor's Application for Final Payment. No interest shall accrue on monies held in retention.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The Work will not be considered suitable for Substantial Completion review until all Project systems included in the Work are operational as designed and scheduled, all designated or required governmental inspections and certifications have been made and posted, designated instruction of the Owner's personnel in the operation of systems has been completed and documents, and all final finishes within the Contract Documents are in place. In general, the only remaining Work shall be minor in nature, so that the Owner could occupy the Project on that date and the completion of the Work by the Contractor would not materially interfere or hamper the Owner's normal business operations and/or use and enjoyment of the Project. As a further condition of Substantial Completion acceptance, the Contractor shall certify that all remaining Work will be completed within thirty (30) calendar days or within the time stated elsewhere in the Contract Documents following the Date of Substantial Completion. Upon the Owner's written consent, the Date of Substantial Completion of landscaping portions of the Work may be as mutually acceptable to the Owner and the Contractor. The Contractor shall secure and deliver to the Owner written warranties and guarantees from its Subcontractors, Sub-Subcontractors and suppliers bearing the date of Substantial Completion or some other date as may be agreed to by the Owner and stating the period of warranty as required by the Contract Documents. The Contractor is responsible for the warranty of all Work, whether performed by it or by its subcontractors at any tier.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list (“Punch List”) of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor’s list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect’s inspection discloses any item, whether or not included on the Contractor’s list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion or as set forth in Article 12 for Punch List items and warranty work.

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

§ 9.8.6 Among other items identified elsewhere in the Contract Documents, submission of the following shall be a prerequisite to Substantial Completion:

1. All Record Documents
2. All Operations and Maintenance Manuals, if any
3. All manufacturers’ warranties, if any
4. Complete commissioning of all systems required by the contract Documents to be commissioned.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 All Work shown on the Contractor’s Punch List and thereafter identified in the Architect’s inspection shall be completed within thirty (30) days of issuance of the Certificate of Substantial Completion, unless a different time is stated elsewhere in the Contract Documents. Upon receipt of the Contractor’s notice that the Work is ready for

final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, based upon the exercise of professional skill and care and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. Neither the Owner nor the Architect shall be responsible for any safety precautions or programs in connection with the Work.

§ 10.2 Safety of Persons and Property

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

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

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

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

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding twenty-one (21) days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

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

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

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

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

§ 10.3.6 If, without negligence on the part of the Contractor, or a breach of relevant provisions of the Contract and/or Contract Documents, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred subject to statutory limits of municipal liability

§ 10.4 Emergencies

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

ARTICLE 11 INSURANCE AND BONDS

§ 11.0 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor and Owner from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable as set forth in the Agreement and in the attached Rider to the General Conditions which Rider is attached hereto as Article 11 as is fully set forth herein.

WHERE IS THE RIDER

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it shall, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time or Contract Sum.

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

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within two years after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the two-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The two-year period for correction of Work shall commence to run with respect to portions of Work first performed or corrected after Substantial Completion at the time the subsequent acceptance of this Work in writing by the Owner .

§ 12.2.2.3 The two-year period for correction of Work shall not be extended by corrective Work performed by the Contractor except as set forth in Article 12.2.2.2 herein.

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

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

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

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located and venue for any legal action shall be in Racine County Circuit Court, Racine County, Wisconsin..

§ 13.1.1 Federal Law; Wisconsin Fair Employment Law

In addition to the certifications, if any, required by the Owner and to the extent required by law, the Contractor shall comply with the terms and procedures of all Federal Law governing employees and employment as well as the Wisconsin Fair Employment law.

§ 13.1.2 MISCELLANEOUS PROVISION OF LAW It is specifically provided that this Contract is subject to all the provisions of law regulating and controlling the performance of Work for the Owner, and that the rules of law shall prevail over any provision contained in any of the Contract Documents which may be in conflict thereto or inconsistent therewith. Each and every provision of law and clause required by law to be inserted in the Contract Documents shall be deemed to be inserted herein and the Contract Documents shall be read and enforced as though it were included herein, and if, through mistake or otherwise, such provision is not inserted, or is not correctly inserted, then upon application of either party, the Contract Documents shall forthwith be physically amended to make such insertion or correction.

§ 13.2 Successors and Assigns

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

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

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

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

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

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

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

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

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located as set forth in the Contract Documents. Under no circumstances shall interest accrue on

amounts held in retention until such time as retainage is due under the Contract, and once due under the Contract, interest shall be as prescribed under herein.

§ 13.6 ARCHITECTS ADDITIONAL COMPENSATION

§ 13.6.1 The Contractor shall compensate the Owner for Additional Services for time expended by the Architect for contract administration time, at the Architect's hourly rate of the individual providing the service for the following:

1. After two (2) reviews of shop drawings/submittals per item.
2. Any office or field time spent after the second Punch list (excluding project closeout procedures).
3. Any office or field time spent should Project closeout extend more than thirty (30) days beyond Substantial Completion.
4. Any office or field time necessitated by the Contractor's failure to achieve the scheduled date of Substantial Completion.

§ 13.6.1.1 the amounts paid to the Architect will be deducted by the Owner from the amounts due the Contractor for these Additional Services by change order and paid directly to the Architect.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven (7) days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work properly executed, as well as reasonable overhead and profit earned to date on Work not executed, and direct costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of sixty (60) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven (7) additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven (7) days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

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

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 If suspension, delay or interruption by the Owner constitutes more than twenty percent (20%) of the total number of days scheduled for completion, the Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall not include profit. No adjustment shall be made to the extent

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

§ 14.3.3 Any adjustment made in the Contract Sum pursuant to paragraph 14.3.2 shall be subject to the provisions of Article 7.3.6. Overhead shall be allowed to the extent of one-half the percentages set forth in Article 7.5.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Termination under this Article 14.1 shall be by written notice of termination delivered to the Contractor specifying the effective date of termination.

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

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed in accordance with the Contract Documents; direct costs incurred by reason of the termination, such as reasonable cancellation restocking charges associated with materials purchased for the Project, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

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

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within twenty-one (21) days after occurrence of the event giving rise to such Claim or within twenty-one (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later, whether or not any impact on cost or time has been determined.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

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

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker’s decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

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

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

§ 15.1.6.3 The criteria on which the term “weather delays” shall be based on the normal average amount of precipitation received in the project areas, as recorded over a period of the last five (5) years by NOAA, National Climatic Data Center. Any extension of time due to unusually severe weather must be requested by the Contractor on the basis of documented records of the actual precipitation for a minimum period of three (3) months’ time, compared with the normal average for the area. The criteria shall also include the number of excessive precipitation

days over the same period and whether or not the Contractor's force worked on said days or any stage of construction was affected.

§ 15.1.5.4 Delay caused by any Subcontractor shall be the responsibility of the Contractor. The Contractor shall therefore, ensure that all Subcontractors provide at all times sufficient personnel, equipment and materials to substantially complete the Work in the time specified herein.

§ 15.1.5.5 Where a delay occurs which is beyond the Contractor's control, the Contractor has an affirmative duty to mitigate the effect of that delay on the progress of the Work. An extension of the Substantial Completion date will not be granted to the extent that the Contractor breaches said duty to mitigate.

§ 15.1.5.6 Additionally, the Contractor shall not be entitled to payment or compensation for any alleged damages, costs or expenses whatsoever, including but not limited to costs of acceleration, arising in any manner because of hindrance or delay, from any cause whatsoever, whether such hindrances or delay be reasonable, foreseeable, avoidable or unavoidable.

§ 15.1.5.7 The Contractor shall not be entitled to recover from the Owner, and hereby waives all rights which it or its Subcontractors or any other person may otherwise have to recover, any costs, expenses and damages of any nature which it or its Subcontractors or any other person, may suffer by reason of delay in the performance of the Work or any portion thereof for any reason, the extension of Contract Time granted herein being the Contractor's sole and exclusive remedy.

§ 15.1.7 Waiver of Claims for Consequential Damages

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

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

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

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to pursuing any Claim in court. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may pursue litigation without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten (10) days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial

Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten (10) days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties unless the parties agree otherwise or pursue the Claim in court.

§ 15.2.5.1 When the Architect is acting as the Initial Decision Maker, interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents. In no event, shall the Architect be liable for results of interpretation or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effects shall be final if consistent with the intent expressed in the Contract Documents.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.