



## **Project Manual**

**Bid Packet and Specifications**

**February 29, 2024**

**District Asphalt, Paving, Sealcoating & Repairs (FY 2024)**

**Bid #2266**

**Various Sites**

**Northbrook, IL 60062**

**Bid Submission Deadline:**

**3:30pm on March 21, 2024**

**Bid Opening:**

**3:45pm on March 21, 2024**

**at**

**Northbrook Park District**

**545 Academy Drive**

**Northbrook, IL 60062**

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## **ADVERTISEMENT TO BID**

The NORTHBROOK PARK DISTRICT does hereby invite sealed bids for **Bid #2266 District Asphalt, Paving, Sealcoating & Repairs (FY 2024)**.

Bids will be received until **3:30pm on March 21, 2024** by mail or delivered by hand to the **Bid Officer**, Northbrook Park District, 545 Academy Drive, Northbrook, Illinois 60062. Immediately thereafter, the bids will be opened and publicly read aloud on **3:45pm on March 21, 2024** in the Northbrook Park District's Conference Room at 545 Academy Drive, Northbrook, Illinois 60062. Each bid must be placed in an opaque, sealed envelope and must be clearly marked **Bid Officer - Northbrook Park District, Bid #2266 District Asphalt, Paving, Sealcoating & Repairs (FY 2024)**. Bid results will typically be available on our website at [nbparks.org](http://nbparks.org), under Bids & RFPs, within 5-7 business days.

The Northbrook Park District ("Owner" or "Park District") reserves the right to waive all technicalities, to accept or reject any or all bids, to accept only portions of a bid and reject the remainder. Owner will award the Contract to the lowest most responsible and responsive Bidder, as determined by Owner. In considering the Bidder's responsibility, the Owner may evaluate, among other factors, the ability of the Bidder to provide experienced labor sufficient in numbers to timely and properly complete the Work, the financial capability of the Bidder, and the performance of the Bidder on other projects.

Bids shall not include federal excise tax or state sales tax for materials to be incorporated in or totally consumed in the prosecution of the Work. A tax exemption certificate will be furnished by the Park District at the request of the Bidder. The Park District's tax exemption number shall only be used by the successful Bidder for the Work of this Project. After the bid opening, no bid may be withdrawn, and all bids shall remain firm for sixty (60) days.

The Work of this Project is subject to the *Illinois Prevailing Wage Act, 820 ILCS 130/0.01 et seq.* A prevailing wage determination has been made by the Illinois Department of Labor for public works projects in Cook County. The Contract entered into for the Work will be drawn in compliance with said law, and proposals should be prepared accordingly and provide for payment of all laborers, workmen and mechanics needed to perform the Work at no less than the prevailing rate of wages (or the prevailing rate for legal holiday and overtime work) for each craft, type of worker or mechanic.

The Contractor(s) selected also will be required to comply with all applicable federal, state and local laws, rules, regulations and executive orders, including but not limited to those pertaining to equal employment opportunity.

All bids must be accompanied by cashier's check or bid bond payable to the order of the Northbrook Park District for ten percent (10%) of the amount of the bid as provided in the Instructions to Bidders. No proposals or bids will be considered unless accompanied by such bond or check.

Those desiring to bid may obtain bidding information during normal business hours of 9am-5pm from **Nicole Wrobel** at 545 Academy Drive, Northbrook, Illinois 60062, email: [nwrobel@nbaprks.org](mailto:nwrobel@nbaprks.org). Project manuals are available at no charge for pick-up at 545 Academy Drive or through our website at [nbparks.org](http://nbparks.org), under Bids & RFPs. The Northbrook Park District encourages minority business firms to submit bids.

Northbrook Park District  
Wendy Peterson, Purchasing

**Dated: February 29, 2024**

**To appear in Daily Herald on February 29, 2024**

## **INVITATION TO BID**

**Date: February 25, 2024**

**Re: Bid #2266 - District Asphalt, Paving, Sealcoating & Repairs (FY 2024)**

Dear Bidder:

Sealed bids for **Bid #2266 - District Asphalt, Paving, Sealcoating & Repairs (FY 2024)** will be received by the Northbrook Park District. Each bid must be placed in an opaque, sealed envelope and clearly marked **Bid Officer - Northbrook Park District, Bid #2266 - District Asphalt, Paving, Sealcoating & Repairs (FY 2024)**. The envelope shall be addressed and delivered to the **Bid Officer - Northbrook Park District**, 545 Academy Drive, Northbrook, Illinois 60062. Bids will be received until **3:30pm on March 21, 2024**, and immediately thereafter, the bids will be publicly opened and read aloud on **3:45pm on March 21, 2024**, at 545 Academy Drive, Northbrook, Illinois. Bids submitted after the closing time will be rejected. No responsibility shall be attached to any person for premature opening of a bid not properly identified. Bid results will typically be available on our website at [nbparks.org](http://nbparks.org), under Bids & RFPs, within 5 - 7 business days.

The Northbrook Park District ("Owner" or "Park District") reserves the right to waive all technicalities, to accept or reject any or all bids, to accept only portions of a bid and reject the remainder. Owner will award the Contract to the lowest most responsible and responsive Bidder, as determined by Owner. In considering the Bidder's responsibility, the Owner may evaluate, among other factors, the ability of the Bidder to provide experienced labor sufficient in numbers to timely and properly complete the Work, the financial capability of the Bidder, and the performance of the Bidder on other projects.

Bids shall not include federal excise tax or state sales tax for materials to be incorporated in or totally consumed in the prosecution of the Work. A tax exemption certificate will be furnished by the Park District at the request of the Bidder. The Park District's tax exemption number shall be used only by the successful Bidder for the Work of this Project. After the bid opening, no bid may be withdrawn, and all bids shall remain firm for sixty (60) days.

The Work of this Project is subject to the *Illinois Prevailing Wage Act, 820 ILCS 130/0.01 et seq.* A prevailing wage determination has been made by the Illinois Department of Labor for public works projects in Cook County. The Contract entered into for the Work will be drawn in compliance with said law, and proposals should be prepared accordingly and provide for payment of all laborers, workmen and mechanics needed to perform the Work at no less than the prevailing rate of wages (or the prevailing rate for legal holiday and overtime work) for each craft, type of worker or mechanic.

The Contractor(s) selected also will be required to comply with all applicable federal, state and local laws, rules, regulations and executive orders, including but not limited to those pertaining to equal employment opportunity.

All bids must be accompanied by a cashier's check or bid bond, payable to the order of the Northbrook Park District for ten percent (10%) of the amount of the bid, as provided in the Instructions to Bidders. No proposals or bids will be considered unless accompanied by such bond or check.

## **INSTRUCTIONS TO BIDDERS**

**Date: February 25, 2024**

**Bid Request: District Asphalt, Paving, Sealcoating & Repairs (FY 2024)**

**Bid Number: 2266**

Sealed bids will be accepted until **3:30pm on March 21, 2024** and immediately thereafter publicly opened and read aloud on **3:45pm on March 21, 2024** in the Conference Room at the Northbrook Park District, 545 Academy Drive Northbrook, IL 60062. Bids arriving after this time will be rejected and will be returned unopened, including mailed bids, regardless of when postmarked. All Bidders are welcome to attend the bid opening. After bid opening, bids will be submitted for approval to the Northbrook Park District Board of Commissioners at a regularly scheduled meeting. Bid results will be available on our website at [nbparks.org](http://nbparks.org), under Bids & RFPs, within 5 - 7 business days.

### **I. Preparation and Submission of Bid Proposal**

- a. It is the sole responsibility of the Bidder to see that his bid is received in proper time. **No faxed or e-mail bid or modification of a bid will be considered.** The Park District is not responsible for the premature opening of bids not marked as required. Any bid opened prematurely due to the failure of the Bidder to mark the envelope in accordance with these Bid Documents will be considered non-responsive. Bidders' prices are to include the delivery of all materials, including plant, equipment, supplies, tools, scaffolding, transportation, insurances, bonds, warranties, and all other items and facilities, and the performance of all labor and services necessary for the proper completion of the Work, except as may be otherwise expressly provided in the Contract Documents. Bids shall not include federal excise tax or state sales tax for materials to be incorporated in or totally consumed in the prosecution of the Work. A tax exemption certificate will be furnished by the Park District upon request of the Bidder.
- b. Bidder must acknowledge all Addenda received in the spaces provided on the Contractor Bid Form. By submitting a bid, Bidder indicates that all considerations issued by Addendum are incorporated in the bid.
- c. Attached to the Bid Form will be one or more certifications regarding the Bidder's compliance with applicable laws. **Failure of a Bidder to complete/submit a required certification shall be the basis for immediate rejection of that Bidder's bid.** The certification of the successful Bidder shall become a part of the Contract with the Park District.
- d. The Bidder shall submit his prices on the attached Contractor Bid Form. The Bid Form shall be executed properly, and all writing, including all signatures, shall be with blue or black ink. **Failure to use the Bid Form provided could result in rejection of the bid.**
- e. The Bidder shall specify in figures, in the places provided, a price for each of the separate items called for in the Bid Form.

### **II. Requirement of Bidders**

- a. Bidders must be able to demonstrate that they: 1) have experience in performing and have successfully performed and are still actively engaged in performing work similar in kind and scope to the Work of the Project, and 2) are able to show that they have adequate laborers and materials to successfully complete the Work as indicated in the Bid Documents and within the time required by the Bid Documents. The Contractor shall not have been debarred or determined ineligible for public contracts by any governmental agency.
- b. The following Contractor Bid Forms must be completed and attached to the Bidder's bid proposal. Failure to do so may result in disqualification of the Bidder. **See the REQUIRED BIDDER INFORMATION form.**

**On the Required Bidder Information form:**

- i. List all construction projects your organization has in progress, giving the name of the project, project description, project address, owner and telephone number, architect and telephone number, contract amount, percent complete, and scheduled completion date.
- ii. List all construction projects your organization has completed in the past two years that are comparable in scope, giving the name of the project, project description, project address, owner and telephone number. Also provide the original contract amount, the final contract amount, the substantial and final completion dates provided for in the contract, and the actual dates of substantial and final completion. Where the final contract amount is materially greater than the contract amount included in the contract at the time of execution by both parties, provide an explanation of the reason(s) for the increase. Where the actual dates of substantial and/or final completion differ from those dates as included in the contract at time of execution by both parties, explain the reason for the delay in the substantial and/or final completion of the Work.
- iii. List all administrative proceedings and litigation filed by or against Bidder in the past five (5) years, including the name and case number, name/jurisdiction of the court or administrative agency, and a summary of each claim/case, including current status and – if no longer pending – the disposition. The foregoing includes but is not limited to information regarding any proceedings and actions taken by any governmental agency to debar or disqualify the Bidder from bidding on public contracts, including the name of the agency initiating the proceeding/action, the nature of the proceeding/action, the claimed basis for the proceeding/action, and the current status or disposition of the proceeding/action.
- iv. Indicate all instances in which Bidder has been rejected for not being a responsible bidder, giving the name of the project, project description, project address, owner and telephone number, architect and telephone number, contract amount, and an explanation of the circumstances surrounding the rejection.
- v. Provide a list of all contracts to which you were a party and with respect to which you were declared to be in breach of one or more provisions, giving the type of contract, the project location where applicable, the names and addresses of the parties to the

contract, the name of the party declaring the breach, the nature of the claimed breach and current status or resolution of the claim. If it is a construction contract, also provide the name, address and telephone number of the architect and, if applicable, the construction manager or owner's representative.

**On the Affidavit of Experience form:**

List at least three (3) projects your organization has completed in the past five (5) years, which are comparable in scope, giving the name of the project, project description, project address, owner and telephone number.

**On the Subcontractor and Supplier's List form:**

Provide a list of anticipated subcontractors and suppliers, if any, including their firm names, addresses and telephone numbers. All subcontractors and suppliers to be used shall be approved by the Owner. If the Contractor subcontracts any part of the Work for this project, the Contractor shall not under any circumstances be relieved of his liabilities and obligations; any subcontractor or supplier for this project will be recognized only in the capacity of an employee of the Contractor.

- c. Other required submittals include: Bid Proposal, Contractor's Compliance and Certification Attachment/Substance Abuse Prevention Program Certification. **Failure of a Bidder to complete/submit these documents shall be the basis for immediate rejection of that Bidder's bid.**

**III. Examination of Site, Drawings and Specifications**

- a. Each Bidder shall visit the site(s) of the proposed Work and fully acquaint himself with existing conditions and shall undertake such additional inquiry and investigation as he shall deem necessary so that he may fully understand the requirements, facilities, possible difficulties and restrictions attending the execution of the Work under the Contract. Bidder shall thoroughly examine and be familiar with all of the Bid Documents, including but not limited to the Drawings and the written Specifications. Any conflicts or discrepancies found between or among Bid Documents, including but not limited to the Drawings and written Specifications and the site conditions, or any errors, omissions or ambiguities in the Drawings or written Specifications shall be immediately reported to the Park District and the Architect and written clarification requested prior to submission of a bid.
- b. The failure or omission of any Bidder to obtain, receive or examine any form, instrument or information, to visit the Project site(s) and become knowledgeable with respect to conditions existing there, or to seek needed clarification shall in no way relieve any Bidder from any obligations with respect to his bid. By submitting a bid, the Bidder agrees, represents and warrants that he has undertaken such investigation as he deemed necessary, has examined the site(s) and the Bid Documents, has obtained all needed clarifications, and where the Bid Documents indicate in any part of the Work that a given result be produced, that the Bid Documents are adequate and the required result can be produced as indicated in the Specifications and Drawing(s). Once the award has been made, failure to have undertaken and

completed the foregoing tasks shall not be cause to alter the original Contract or to request additional compensation.

#### **IV. Acceptance or Rejection of Bids**

- a. The Park District may accept the bid of, and award the Contract for the Work to, the lowest responsive and responsible Bidder, as determined by and in the sole discretion of the Park District.
- b. The Owner reserves the right to: (1) reject all bids; (2) reject only certain bids that are non-conforming or non-responsive to the bid requirements; (3) accept only a portion, part or specific items of Work of all and reject others, as the Owner shall in its sole discretion determine to be in its best interest; and/or (4) award the Contract to the responsible Bidder submitting the lowest bid responsive to the bidding requirements. No bid will be accepted from or Contract awarded to any person, firm or corporation that is in arrears or is in default to the Park District upon any debt or contract, or that is a defaulter, as surety or otherwise, upon any obligation to said Park District or that has failed to perform faithfully any previous contract with the Park District.
- c. In the event of a rejection of a portion, part or certain items of Work of all bids, the bid of each Bidder shall automatically be deemed reduced by the amount of such rejected part or item at the unit price or other cost designated therefore by that Bidder on its submitted Contractor Bid Form. The successful Bidder so selected may not refuse to enter into a Contract with the Owner on the basis that the Owner awarded a Contract for less than all portions or items of the Work specified in the Bid Documents. The Northbrook Park District Board of Park Commissioners reserves the right to waive any technicalities or irregularities and to disregard any informality on the bids and bidding when, in its opinion, the best interest of the Park District will be served by such actions and in accordance with applicable law.

#### **V. Surety**

- a. All bids must be accompanied by a bid bond or bank cashier's check, payable to the Northbrook Park District for ten percent (10%) of the amount of the bid and drawn on a responsive and responsible bank doing business in the United States. All bids not accompanied by a bid security, when required, will be rejected.
- b. The bid security of all except the three (3) lowest responsive and responsible Bidders will be returned after the decision to accept or reject bids by the Northbrook Park District Board of Park Commissioners. The bid security of the three (3) lowest responsive and responsible Bidders will be returned after acceptance by the Park District of an acceptable Performance Bond, Labor and Materials/Payment Bond, and a certificate of insurance naming the Northbrook Park District as the certificate holder and as additional insured from the successful Bidder, and the successful Bidder has executed and returned to the Park District the Contract for the Work presented by the Park District.
- c. Prior to beginning Work, the successful Bidder shall furnish a **Performance Bond and Labor and Materials/Payment Bond in the amount of 110% of the Contract Sum**, using a form similar to

the AIA-A312-2010 form, or its current equivalent, or one acceptable to Owner, cosigned by a surety company licensed to conduct business in the state of Illinois and with at least an "A" rating and a financial rating of at least "X" in the latest edition of the *Best Insurance Guide*. Said bond shall guarantee the faithful performance of the Work in accordance with the Contract, the payment of all indebtedness incurred for labor and materials, and guarantee correction of Work for a period of one (1) year after Final Completion. The cost of each bond shall be included in the Contract Sum. The Bidder and all subcontractors shall name the Park District as an obligee on all bonds. Said bonds shall meet the requirements of the *Illinois Public Construction Bond Act, 30 ILCS 550/0.01 et seq.*, and any further amendments thereto. Bidder shall include in his Performance Bond and Labor and Material Payment Bond such language as shall guarantee the faithful performance of the *Prevailing Wage Act* as required in these Bid Documents.

- d. The Performance Bond and Labor and Material Payment Bond will become a part of the Contract. The failure of the successful Bidder to enter into the Contract and supply the required bonds and evidence of insurance within ten (10) days after the Contract is presented for signature, or within such extended period as the Park District may grant, shall constitute a default, and the Park District may either award the Contract to the next responsible Bidder or re-advertise for bids. In the event of a default, the Owner need not return the defaulting Bidder's bid surety and may charge against the defaulting Bidder for the full difference between the amount for the Bid and the amount for which a Contract for the Work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the defaulting Bidder's bid surety.

## **VI. Withdrawal of Bid**

- a. Bidders may withdraw or cancel their bids at any time prior to the advertised bid opening time by signing and submitting a request for said withdrawal. After the bid opening time, no bid shall be withdrawn or canceled for a period of sixty (60) calendar days.

## **VII. Award, Acceptance and Contract**

- a. Owner will award the Contract to the lowest most responsible and responsive Bidder, as determined by Owner. In considering the Bidder's responsibility, the Owner may evaluate, among other factors, the ability of the Bidder to provide experienced labor sufficient in numbers to timely and properly complete the services, conformity with the Specifications, serviceability, quality, and the financial capability of the Bidder, and the performance of the Bidder on other projects.
- b. Bids will be awarded to one Bidder for the entire Project or to any series of Bidders for an appropriate portion of the Project. If specified in the Bid Form, awards will be based upon the submitted unit prices.
- c. The acceptance of a bid will be by a Notice of Award, signed by a duly authorized representative of the Park District; no other act by the Park District shall constitute the acceptance of a bid. The acceptance of a bid by the Park District shall bind the successful Bidder to execute and perform the Work of the Contract. The successful Bidder to whom the Contract is awarded by the Park District shall sign and deliver to the Park District for



execution by the Park District all required copies of the Contract, along with all required insurance and surety documents within ten (10) days after presentation to him of the Contract for signature. In case the Bidder shall fail or neglect to do so, he will be considered as having abandoned the Contract, and as being in default to the Owner. The Owner may thereupon re-advertise or otherwise award said Contract and forfeit the Bid Security.

- d. The Invitation to Bid, Instructions to Bidders, General Conditions, Supplementary and/or Special Conditions, if any, Drawings, Specifications, Contractor Bid Form, Addenda, if any, Contractors Compliance and Certifications Attachment, and Substance Abuse Certification and the Prevailing Wage Determination and Supersedes Notice comprise the Bid Documents. The Bid Documents, together with the Standard Form of Agreement Between Owner and Contractor AIA Document A101-2017, as modified by the Park District and included in these Bid Documents, Performance Bond and Labor and Material Payment Bond and proof of insurance comprise the Contract Documents.

#### **VIII. Interpretation of the Contract Documents**

- a. The Park District shall in all cases determine the amount or quantity of the several kinds of Work which are to be paid for under this Contract and shall decide all questions which may arise relative to the execution of the Contract on the part of the Contractor, and all estimates and decisions shall be final and conclusive. The Park District shall have the right to make alterations in the lines, grades, plans, forms or dimensions of the Work herein contemplated either before or after the commencement of the Work. If such alterations diminish the quantity of the Work to be done, they shall not constitute a claim for damage or for anticipated profits on the Work dispensed with, or if they increase the amount of Work, such increase shall be paid according to the quantity actually done and at the price or prices stipulated for such Work in the Contract. The Park District reserves the right to approve an equal to or superior to product or equipment required under the Specifications or to reject as not being an equal to or superior to the product or equipment required under the Specifications. If the Bidder is in doubt as to the interpretation of any part of the Bid Documents or finds errors, discrepancies or omissions from any part of the Contract Documents, he must submit a written request for interpretation thereof not later than five (5) days prior to opening of bids to the Park District and the Architect, if applicable. Address all communications to **Nicole Wrobel** at the Park District. If an error or omission is discovered in the Bid Documents after the bid opening, the Park District reserves the right: i) to determine whether to require the submission of new bids; or ii) if the error or omission is of such a nature that it was reasonably discoverable upon a careful review of the Bid Documents, to award the Contract to the lowest responsive and responsible Bidder as determined by the Park District and to require that Contractor to perform the Work in accordance with an issued correction by the Park District and/or Architect and for the amount bid by the Contractor. Such decisions are final and not subject to recourse. Errors and omissions made by the Bidder cannot be corrected after the bid opening.

#### **IX. Addenda**



- a. Any interpretation, correction or addition to the Bid Documents will be made by written Addendum and will be delivered by mail, email or fax to each prime Bidder of record. The written Addenda constitute the only interpretations of the Bid Documents; the Park District accepts no responsibility for any other claimed interpretations or communications.
- b. It is the responsibility of each Bidder to verify that he has received all Addenda prior to submitting a bid. It is also the responsibility of each Bidder to verify that all subcontractors and material suppliers whose prices are incorporated in the Bidder's bid are familiar with the Bid Documents in their entirety, including all Addenda issued up to the time of bid opening.
- c. In the event a conflict or omission is discovered in the Bid Documents after the issuing of the last Addendum such that an interpretation cannot be issued by the Park District prior to bidding, the Bidder is directed to estimate on and provide the quantity and quality of material and labor consistent with the overall represented and indicated Work so as to provide all materials, equipment, labor and services necessary for the completion of the Work in accordance with the Bid Documents.

**X. Substitutions during Bidding**

- a. Unless otherwise indicated, brand names in the Specifications are used for the purpose of establishing a grade or quality. Bidders proposing to use an alternate that is equal or superior in every respect to that required by the Specifications must request approval in writing to the Park District at least seven (7) business days prior to the bid opening and mark the item as "or approved equal."
- b. Additionally, Bidders requesting approval for use of an alternate must provide certification by the manufacturer that the substitute proposed is equal to or superior in every respect to that required by the Contract Documents and that its in-place performance will be equal to or superior to the product or equipment specified in the application indicated. The Bidder, in submitting the request for substitution, waives the right to additional payment or an extension of Contract Time because of the failure of the substitute to perform as represented in the request for substitution.
- c. The Park District may request additional information or documentation necessary for evaluation of the request for substitution. The Park District will notify all Bidders of acceptance of the proposed substitute by means of an Addendum to the Bid Documents. The Park District's approval of a substitute during bidding does not relieve the Contractor of the responsibility to submit required shop drawings and to comply with all other requirements of the Contract Documents, including but not limited to proper performance of all components of the Work and suitability for the uses specified.
- d. Bids proposing alternates not previously approved by the Park District will be considered non-responsive and rejected. The Park District reserves the right to determine whether a substituted selection, in its judgment, is equal to or of better quality and therefore an acceptable alternate. Such decisions are final and not subject to recourse.

**XI. Bid Proposal Sum**

- a. Bidders shall include the following costs as part of their bid proposal:

- i. The cost of materials, labor and equipment, either specified or necessary for the implementation of the Work as described in Section II. Subcontracted labor, equipment or materials should be clearly identified.
- ii. The cost of any material and/or labor which is not specifically described, but which is necessary to complete the Contract, including Project administration costs.
- iii. The cost of a full-time qualified project manager for the duration of the Contract.
- iv. The cost of transportation, insurances, bonds, warranties, permits and all other facilities, and the performance of all labor and services necessary for the proper completion of the Work, except as may be otherwise expressly provided in the Contract Documents.

**XII. Partial Bids**

- a. Bids for only part of the Work may be considered. Such bids must cover all Work described in that section of the Specifications, including completion date.

**XIII. Contract**

- a. The accepted Bidder is required to enter into a written contract with the Northbrook Park District, substantially in the same form included in these Bid Documents.

**XIV. Tax Exemption**

- a. The Northbrook Park District is not subject to federal excise or Illinois retailer's occupation tax. Bids shall not include federal excise tax or state sales tax for materials to be incorporated in or totally consumed in the prosecution of the Work. A tax exemption certificate will be furnished by the Park District at the request of the Bidder. The Park District's tax exemption number shall be used only by the successful Bidder for the Work of this Project.

**XV. Postponement of Date for Opening Bids**

- a. The Northbrook Park District reserves the right to postpone the date of presentation and opening of bids and will give written notice of any such postponement to each interested party.

**XVI. FOIA Requirements**

By submitting a bid or otherwise responding in any way to this request for bids, the Bidder acknowledges the following:

- a. The Northbrook Park District is subject to the Freedom of Information Act, 5 ILCS 140/1, et seq. ("FOIA"), and any and all information submitted by the Bidder to the Park District is subject to disclosure to third parties in accordance with FOIA.

- b. If the Bidder intends for the Park District to withhold the Bidder's trade secrets, commercial information, or financial information from disclosure to a third party in response to a FOIA request, the Bidder must include with its bid submittal a written notification specifically identifying such information, along with a statement that disclosure of such information will cause competitive harm to the Bidder, as provided by FOIA Section 7(1)(g), 5 ILCS 140/7(1)(g). Any content not so marked by the Bidder at the time of bid submittal will be presumed to be open to public inspection. The Bidder may be required to substantiate the basis for its claims at a later time.
- c. Notwithstanding timely notice received from a Bidder to withhold Bidder's information in accordance with FOIA Section 7(1)(g), the Park District reserves the right, in its sole discretion and subject only to applicable law, to withhold or release the subject information in response to a FOIA request.

**END OF SECTION**

### **BIDDERS CHECKLIST**

Please make sure you have all the items completed before submitting your SEALED bid.

- ☐ Site Examination
- ☐ Completed Bid Form
- ☐ Signed Addenda
- ☐ Bid Bond – 10%
- ☐ Subcontractors and Suppliers List Form
- ☐ Contractor Compliance and Certifications Attachment Form
- ☐ Substance Abuse Prevention Program Certification
- ☐ Affidavit of Experience Form
- ☐ Required Bidder Information Form
- ☐ Bid Submittals
  - Each bid must be placed in an opaque, sealed envelope and clearly marked:

**Bid Officer - Northbrook Park District**  
**Bid #2266 District Asphalt, Paving, Sealcoating & Repairs (FY 2024)**  
**3:30pm on March 21, 2024**  
**3:45pm on March 21, 2024**

- If delivering by mail, the for mentioned opaque sealed envelope shall be placed in a mailing envelope (USPS, FedEx, UPS, etc.), and shall be addressed and delivered to:

Bid Officer - Northbrook Park District  
Bid #2266 District Asphalt, Paving, Sealcoating & Repairs (FY 2024)  
545 Academy Drive  
Northbrook, Illinois 60062

**END OF SECTION**

## **CONSTRUCTION SCHEDULE**

### **I. Completion of Work**

The Owner requires that the Work be completed and operational by:

- a. **Greenfield Park:** Pathways & Bleacher Pads
  - i. **Start Date:** August 2024
  - ii. **Substantial Completion Date:** August 2024
  - iii. **Final Completion Date:** August 2024
    - \*Baseball on Monday & Wednesdays Spring/Summer
    - \*August 5-23 OPEN for sealcoating, no Baseball/Soccer
- b. **Wescott Park:** Pathways
  - i. **Start Date:** August – September Date TBD
  - ii. **Substantial Completion Date:** August – September Date TBD
  - iii. **Final Completion Date:** August – September Date TBD
    - \*June 6-10 Baseball Tournament – NO SEALCOATING
    - \*Sealcoating cannot be completed until after playground construction is completed.
- c. **West Park:** Pathways & Bleacher Pads
  - i. **Start Date:** August Date TBD
  - ii. **Substantial Completion Date:** August Date TBD
  - iii. **Final Completion Date:** August Date TBD
    - \*May 10-13 Northbrook on Ice – NO SEALCOATING
    - \*June 6-10 Baseball Tournament – NO SEALCOATING
    - \*August 5-23 OPEN for sealcoating, no Baseball/Soccer
- d. **Northbrook Sports Center:** Parking Lot
  - i. **Start Date:** May 14, 2024
  - ii. **Substantial Completion Date:** May 31, 2024
  - iii. **Final Completion Date:** June 7, 2024
    - \*Must keep half the lot open at all times.
    - \*May 10-13 Northbrook on Ice – NO SEALCOATING
    - \* Sports Center Pool Opens June 8, no sealcoating after June 7.
- e. **Village Green Center:** Parking Lot
  - i. **Start Date:** May 14, 2024
  - ii. **Substantial Completion Date:** September 20, 2024
  - iii. **Final Completion Date:** September 27, 2024
    - \*Blackout Dates:
      - May 11-12 Baseball and Art in the Park
      - May 16 and 17 - Plant Sale
      - Tuesdays in the Park - starting June 18, 25, July 9, July 16, July 23, July 30 and August 6
      - June 22 and 23 – Large rental at Village Green Park – Artisan Group
      - July 25 – Intelligencia Cup
      - August 17 - Party on the Green
      - September 7 - Brewfest
      - September 13-15 – Shermerfest

## **II. Construction Schedule Submittal**

- a. Within seven (7) calendar days of Notice to Proceed, Contractor shall submit and review with the Owner and the Architect a formal construction schedule identifying the sequencing of events.
- b. Contractor shall graphically chart the order (by bar chart) and interdependence of all activities necessary to complete the Work, and the sequence in which each activity is to be accomplished, as planned by the Contractor, his project office and field superintendents in coordination with all the subcontractors whose work may have an impact on the schedule.

**END OF SECTION**

## **SPECIAL CONDITIONS**

### **I. Liquidated Damages**

- a. Time is of the essence to the Contract. Should the Contractor fail to complete the Work on or before the Final Completion date stipulated in the Contract or within such extended time as may have been allowed, the Contractor shall be liable and shall pay to the Owner the sum of **\$500** per calendar day, not as a penalty but as liquidated damages, for each day of overrun in the Contract Time or such extended time as may have been allowed. The liquidated damages for failure to complete the Contract on time are approximate, due to the impracticality of calculating and proving actual delay costs. The costs of delay represented by the liquidated damage amount are understood to be a fair and reasonable estimate of the costs that will be borne by the Owner during extended and delayed performance by the Contractor for the Work, remaining incidental work, correction of work improperly completed, or repair of work damaged as a result of the Contractor. The liquidated damage amount specified will accrue and be assessed until Final Completion of the total physical Work of the Contract, even though the Work may be substantially complete. The Owner will deduct these liquidated damages from any monies due or to become due to the Contractor from the Owner.

### **II. Non-Waiver**

- a. None of the following acts shall constitute a waiver of the Contractor's obligation to pay liquidated damages or any portion thereof:
  - i. Acceptance of any portion of the Work or payment to the Contractor thereof
  - ii. Substantial completion of a portion of the Work or the occupancy thereof by the Owner; or
  - iii. Owner requiring/allowing the Contractor to complete the Work

### **III. Additional Costs/Claims of Other Parties**

- a. The Owner's right to recover liquidated damages is for Contractor's failure to complete the Project on time only and such damages shall be in addition to and not a substitute for any right of recovery for additional costs incurred by Owner due to Contractor's failure to perform the Contract for other reasons. Nor shall the Owner's right to recover liquidated damages be a substitution for or bar to recovery of any additional compensation the Owner may be obliged to pay the Architect, Engineer and/or Contractors for other Work on the Project occasioned by Contractor's failure to perform.

### **IV. Other Rights and Remedies**

- a. The rights and remedies of the Owner herein provided are in addition to any other rights and remedies provided under the Contract or by operation by law.

**END OF SECTION**

## **STANDARD FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR**

The American Institute of Architects *AIA Document A101 - Standard Form of Agreement Between Owner and Contractor, 2017 Edition*, as modified by Owner and included in this Project Manual as Exhibit A, is the Contract and is hereby made a part of the Contract Documents.



## **GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION**

The American Institute of Architects *AIA Document A201-2017 General Conditions of the Contract for Construction, 2017 Edition*, as modified by Owner and included in this Project Manual, are the General Conditions as Exhibit B.

## **SUPPLEMENTAL CONDITIONS**

The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201-2017, as modified by the Park District, included in these Bid Documents (the "General Conditions"). The General Conditions are hereby amended to include the following terms (the "Supplemental Conditions"):

### **I. Payment**

- a. Terms for payment are governed by the *Local Government Prompt Payment Act, 50 ILCS 505/1, et.seq.*, and in accordance with the Contract Documents.
- b. Request for Payment should be made in accordance with the Contract Documents and should include the following information:
  - i. Name, address and phone number of the Bidder
  - ii. Invoice number
  - iii. Itemized statement of services
  - iv. Any payment discount terms offered
  - v. Complete W-9
  - vi. Certified Payroll
  - vii. Waivers
  - viii. Any other documents as required by the Contract Documents

### **II. Guarantee and Warranty**

- a. The successful Bidder warrants to the Northbrook Park District that all materials, supplies and equipment furnished will be of good quality and new unless otherwise required or permitted by the Specifications; that the materials, supplies and equipment will be free from defects not inherent in the quality required or permitted; and that the materials, supplies and equipment will conform to the Specifications. Materials, supplies and equipment not conforming to the Specifications, including substitutions not properly approved or authorized, are defective and will be rejected by the Northbrook Park District. This warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Bidder, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage.
- b. The Contractor must present the Northbrook Park District with two (2) copies of any manufacturer's warranty or guarantee information. If needed, the Contractor agrees to assign any warranties and guarantees to the Northbrook Park District. Unless a longer period is required pursuant to the Specifications, the Contractor guarantees against any faulty

materials or workmanship for a period of one (1) year after final payment. Any such defects must be corrected, either through repair or replacement, at the Contractor's expense.

### **III. Materials**

- a. All materials supplied by the Contractor shall be new materials of the like and kind specified. Defective materials and equipment, including those damaged during installation or testing, will not be accepted and must be replaced or repaired in a manner satisfactory to the Northbrook Park District.

### **IV. Completion Date**

- a. The Contractor shall complete the Work of this Project by the date set forth in the Construction Schedule. Failure of the Contractor to complete this Project in accordance with the Specifications shall constitute a breach of the Contract.

### **V. Insurance**

- a. For the duration of the contract, Contractor shall procure and maintain insurance against claims for death, injuries to persons, or damages to property that may arise from or in connection with the performance of Work hereunder by the Contractor, his agents, representatives, employees or subcontractors of the types and in the amounts listed below.

- i. Commercial General and Umbrella Liability Insurance

1. The Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate. If such CGL insurance contains a general aggregate limit, it shall apply separately to this Project location. CGL insurance shall be written on Insurance Services Office (ISO) Occurrence Form CG 00 01 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury, advertising injury and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). Owner, its elected and appointed officials, employees, agents and volunteers, and Architect shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or a substitute providing equivalent coverage under the commercial umbrella, if any. This insurance shall apply as primary. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

- ii. Continuing Completed Operations Liability Insurance

1. Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each occurrence for at least three years following substantial completion of the work. Continuing CGL insurance shall be written on ISO

occurrence form CG 00 01, or substitute form providing equivalent coverage, and shall, at minimum, cover liability arising from products-completed operations and liability assumed under an insured contract. Continuing CGL insurance shall have a products-completed operations aggregate of at least two times its each occurrence limit. Continuing commercial umbrella coverage, if any, shall include liability coverage for damage to the insured's completed work equivalent to that provided under ISO form CG 00 01.

ii. Business Auto and Umbrella Liability Insurance

1. The Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto, including owned, hired and non-owned autos. Business auto insurance shall be written on Insurance Services Office (ISO) Form CA 00 0 1, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

iii. Workers Compensation Insurance

1. The Contractor shall maintain workers compensation as required by statute and employers liability insurance. The commercial umbrella and/or employer's liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease. If the Owner has not been included as an insured under the CGL using ISO additional insured endorsement CG 20 10 under the Commercial General and Umbrella Liability Insurance required in this Contract, the Contractor waives all rights against Owner and its officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Contractor's work.

iv. General Insurance Provisions

1. Evidence of Insurance

- a. Prior to beginning Work, Contractor shall furnish Owner with a certificate of insurance and applicable policy endorsements, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above. All certificates shall provide for 30 days written notice to Owner prior to the cancellation or material change of insurance referred to therein. Written notice to Owner shall be by certified mail, return receipt requested.

An additional certificate and endorsements evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted by Contractor and all Subcontractors with the

final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the time permitted for expiration. If any aggregate limit is reduced on account of claims paid, Contractor and Subcontractor shall immediately notify the Owner and Architect in writing of the amount of such reduction.

Failure of Owner to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of Owner to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance. Owner shall have the right, but not the obligation, of prohibiting Contractor or any subcontractor from entering the Project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by Owner. Failure to maintain the required insurance may result in termination of this Contract at Owner's option. With respect to insurance maintained after final payment in compliance with a requirement above, an additional certificate shall provide certified copies all insurance policies required above within ten (10) days of Owner's written request for said copies.

## *2. Acceptability of Insurers*

- a. For insurance companies that obtain a rating from A.M. Best, that rating should be no less than a VII, using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than a VII or a Best's rating is not obtained, the Owner has the right to reject insurance written by an insurer it deems unacceptable.

## *3. Cross-Liability Coverage*

- a. If Contractor's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

## *4. Deductibles and Self-Insured Retentions*

- a. Any deductibles or self-insured retentions must be declared to the Owner. At the option of the Owner, the Contractor may be asked to eliminate such deductibles or self-insured retentions as respects the Owner, its officers, officials, employees, volunteers and agents or required to procure a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration and defense expenses.

## *5. Subcontractors*

- a. Contractor shall cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified above. When requested by the Owner, Contractor shall furnish copies of certificates of insurance evidencing coverage for each subcontractor.

## **VI. Indemnification**

- a. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Northbrook Park District and its officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses including but not limited to legal fees (attorney's and paralegal's fees and court costs), arising out of or resulting from the performance of the Contractor's work, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use resulting there from and (ii) is caused in whole or in part by any wrongful or negligent act or omission of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except to the extent it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph. The Contractor shall similarly protect, indemnify and hold and save harmless the Northbrook Park District, its officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Contractor's breach of any of its obligations under, or the Contractor's default of, any provision of the Contract.

## **VII. Construction Permits**

- a. Owner has commenced the permit application process for this project. Upon signing this Contract, the Contractor is responsible for submitting, coordinating and obtaining all necessary documents associated with the permit requirements for the construction of this Project. The Contractor shall also be responsible for scheduling and attending any inspections required in the permit process for this Project. The Contractor is not responsible for revising and/or altering the design as shown on the plans based on the permit review unless the Contractor is the author of the plans, or as otherwise required under the Contract. All costs associated with permitting are to be included in the general conditions of this Contract.

## **VIII. Construction Meetings**

- a. Contractor shall attend weekly on-site construction meetings scheduled by the Park District to review construction and address Project concerns.

**END OF SECTION**

## **APPLICATION AND CERTIFICATE FOR PAYMENT**

The American Institute of Architects *AIA Document G702 - Application and Certificate for Payment, 1992 Edition, including Continuation Sheet G703*, is hereby made a part of the Contract Documents.

Copies of this Document are available from:

Chicago Chapter Office of the American Institute of Architects  
222 Merchandise Mart Plaza  
Chicago, Illinois 60604  
(312) 670-7770

### **CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS**

The American Institute of Architects *AIA Document G706 - Contractor's Affidavit of Payment of Debts and Claims, 1994 Edition*, is hereby made a part of the Contract Documents.

Copies of this Document are available from:

Chicago Chapter Office of the American Institute of Architects  
222 Merchandise Mart Plaza  
Chicago, Illinois 60604  
(312) 670-7770

**END OF SECTION**



**NOTICE OF AWARD (SAMPLE)**

**Subject: NORTHBROOK PARK DISTRICT**

Dear Mr. / Ms. \_\_\_\_\_:

The Northbrook Park District (Owner) has considered the Bid submitted by \_\_\_\_\_ for the subject Project dated \_\_\_\_\_. You are hereby notified that your Bid has been accepted for the Base Bid in the amount of \$\_\_\_\_\_.

You are required to execute the Agreement and furnish the required bonds and certificates of insurance within ten (10) calendar days from the date of this Notice of Award. If you fail to execute said Agreement and to furnish said bonds and insurance within ten (10) days, the Owner will be entitled to consider all your rights arising out of the acceptance of your bid as abandoned and as a forfeiture of your Bid Bond. The Owner will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this Notice of Award to the Owner.

Sincerely,

James Kim  
Director of Parks & Properties

\*\*\*\*\*

**ACCEPTANCE OF NOTICE**

Receipt of this "NOTICE OF AWARD" is hereby acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

**NOTICE TO PROCEED (SAMPLE)**

**SUBJECT:**      NORTHBROOK PARK DISTRICT  
                          *(PROJECT NAME)*

Dear Mr. / Ms. \_\_\_\_\_,

\_\_\_\_\_ is hereby notified to commence work on the above Project as shown in the Contract and to complete the Project as specified by \_\_\_\_\_, unless otherwise authorized.

Please return an acknowledged copy of this "NOTICE TO PROCEED" to the Northbrook Park District, 545 Academy Drive, Northbrook, IL 60062.

Sincerely,

James Kim  
Director of Parks & Properties

\*\*\*\*\*

**ACCEPTANCE OF NOTICE**

Receipt of this "NOTICE TO PROCEED" is hereby acknowledged this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

**Certified Transcript of Payroll**

\*\* Please Note: The Submission of falsified payroll records is a criminal offense. PAGE 1 of 1

ILLINOIS DEPARTMENT OF LABOR		Contract Information		Public Body Information												
<b>Contractor and/or Subcontractor</b> Contact Person: TOM JONES Company Name: PEM CONSTRUCTION COMPANY Address: P.O. BOX 217 1234 MAIN STREET City, State, Zip: CLAYTON, NC 27528 Telephone: (919)639-7025		<b>Contract Information</b> Contract Number: 889792HHGDF Project Number: Sample Project Project: 3RD FLOOR DEMOLITION AND RENOVATION Project Location: ACME BUILDING CORPORATION 12345 MAIN STREET ANYWHERE, US 12345		<b>Public Body Information</b> Contact Person: SALLY SMITH Public Body Name: STATE AGENCY Address: 100 STATE ST 100 STATE ST City, State, Zip: RALIEGH, NC 27599 Telephone: (555)555-9876												
<b>Report Hours for Each Day, Including Overtime Hours. List Hourly Prevailing Wage Rate and Hourly Fringe Benefits Allotments.</b>																
Payroll Date	IDOL Case File Number:	Hours Worked Each Day							Total OT	Hourly Rate	OT Rate	Per Pay Period		Hourly Fringe Benefits		
		Total Hours										Reg	Reg		Net PW	
		TUE	WED	THU	FRI	SAT	SUN	MON								PW
2/12/2007	889/55674-002	2/6	2/7	2/8	2/9	2/10	2/11	2/12	Reg	Reg	Reg	Reg	Reg	Reg	Reg	Reg
Employee Name, Address SSN & Telephone #	Labor CLASSIFICATION								8.00	48.00	8.00	10.00	15.00	520.00	736.00	0.20
BOB SMITH 1234 MAIN STREET ANYWHERE USA, CA 12345 987-55-1234 (555)555-1234	CARPENTER								8.00	48.00	8.00	10.00	15.00	520.00	736.00	0.20
												20.00	30.00	0.00	1,200.00	0.10
																0.30
																0.40

INSTRUCTIONS: Fringe benefits (health insurance, pension, vacation, and training) must be paid, if this required for the work classification, regardless of your union or nonunion status. We give you credit for health insurance paid (if any) and ERISA approved pension plan (if any) and training if your employees are in a BAT approved program. If the fringe benefits rate is paid into a fund, please note by placing the letter "F" behind the fringe benefit rate; if the fringe benefit rate is included on an employee's payroll check, please note by placing the letter "E" behind the fringe benefit rate. On the back of this form please list all subcontractors, independent contractors and owner/operator's your company used on this project. If you wish information regarding coverage of the Act, please visit our web site at [www.state.il.us/agency/idol/](http://www.state.il.us/agency/idol/) or call 217-782-1710.

Form and Software by PEM Software Systems, Inc. 800-803-1315

\*PW - Prevailing Hours Worked \*N - Non Prevailing Hours Worked

# Certified Transcript of Payroll

## AFFIDAVIT

Weekly Statement of Compliance

Date: 2/12/2007

I, JOHN SMITH  
(name of signatory party)  
PRESIDENT  
(Title) do

hereby state: that I pay or supervise the payment  
or the persons employed on the public works  
Project

859792/HHGDF,  
(name of project)

that during the payroll period commencing on the  
5 day of FEBRUARY, 2007,  
all persons employed on said project have been  
paid the full weekly wages earned; that no  
rebates have been or will be made either directly  
or indirectly to or on behalf of said  
PEM CONSTRUCTION COMPANY  
(name of contractor or subcontractor)

from the full weekly wages earned by any person  
and that no deductions have been made either  
directly or indirectly from the full weekly wages  
earned by any person, other than permissible  
deductions as defined by Federal and/or State  
Law. I further certify that this payroll is correct  
and complete; that the wage rates contained  
therein are not less than the actual rates herein  
stated and that the classification set forth for each  
laborers or mechanic conform to the work he/she  
performed.

Signature

Digital Signature

State of Illinois  
Illinois Department of Labor

## SUBCONTRACTORS

Attach explanation of Monies paid, copy of contract of billing, or other pertinent information  
Company Name:

Contact Person:

Address:

(city) (state) (zipcode)

Telephone Number: (000)000-0000

sample

**IMPORTANT NOTICE OF RESPONSIBILITY FOR PERIODIC REVISIONS TO  
PREVAILING WAGE RATES**

Revisions of the Prevailing Wage Rates are made periodically by the Illinois Department of Labor (IDOL). As required by the Illinois Prevailing Wage Act, the contractor/subcontractor has an obligation to check IDOL's web site for revisions to prevailing wage rates. These revisions may be accessed by computer at <http://labor.illinois.gov/>. Bidders and contractors performing work on this Project are responsible for determining the applicable prevailing wage rates at the time of bid submission and performance of the Work. Failure of a bidder/contractor to make such determination shall not relieve it of its obligations in accordance with the Contract Documents. In consideration for the award to it of the contract for this Project, the contractor agrees that the foregoing notice satisfies any obligation of the public body in charge of this Project to notify the contractor of periodic changes in the prevailing wage rates and the contractor agrees to assume and be solely responsible for, as a material obligation of the contractor under the contract, the obligation to determine periodic revisions of the prevailing wage rates, to notify its subcontractors of such revisions, to post such revisions as required for the posting of wage rates under the Act, and to pay and require its subcontractors to pay wages in accordance with such revised rates.

A link for more information on how to access IDOL's Certified Transcript of Payroll Portal is here:  
<https://www2.illinois.gov/idol/Laws-Rules/CONMED/Pages/certifiedtranscriptofpayroll.aspx>

**BID FORM**  
**Bid #2266 - District Asphalt, Paving, Sealcoating & Repairs (FY 2024)**

Proposal of \_\_\_\_\_, Dated \_\_\_\_\_

Hereinafter called "Bidder", (a)/(an) \_\_\_\_\_ (corporation, partnership, individual)

doing business as \_\_\_\_\_

to the Northbrook Park District, hereinafter called "Owner."

Bidder acknowledges receipt of the following Addenda, which are a part of the Contract Documents:

Addenda Numbers: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.

By submission of his bid, the Bidder acknowledges, agrees, represents, declares and warrants:

- I. That he has visited and examined the site and is fully familiar with and has satisfied himself as to the site and the local and other conditions under which the Work is to be performed, including without limitation, (i) surface conditions of the site and subsurface conditions readily observable or ascertainable upon the exercise of reasonable diligence and all structures and obstructions thereon and thereunder, both natural and manmade; (ii) the nature, location and character of the general area in which the Project is located, including without limitation, its climatic conditions, available labor supply and labor costs, and available equipment supply and equipment costs; and (iii) the quality and quantity of all materials, supplies, tools, equipment, labor and professional services necessary to complete the Work in the manner and within the cost and timeframe indicated by the Contract Documents; and has correlated the Bidder's personal observations with the requirements of and matters indicated in or by the proposed Contract Documents.
- II. To hold the bid open for sixty (60) days subsequent to the date of the bid opening.
- III. To enter into and execute a Contract with the Owner within ten (10) days after the date of the Notice of Award, if awarded on the basis of this bid, and in connection therewith to:
  - a. Furnish all insurance required by the Contract Documents;
  - b. Accomplish the Work in accordance with the Contract Documents; and
  - c. Complete the Work within the time requirements as set forth in the Contract Documents.
- IV. That the Bidder has carefully examined the Instructions to Bidders, the Drawings and Specifications, and the Project Manual in its entirety, in order to determine how these affect the bid proposal, the forms of the Contract, the required Contract bonds, and duration thereof; and that the Bidder has inspected in detail the site of the proposed Work and been familiarized with all of the requirements of construction and of the governing municipalities under whose jurisdiction the Project falls (its codes, ordinances and construction requirements therein) and

understands that in making this proposal, the Bidder waives all rights to plead any misunderstanding regarding the same.

- V. That if this proposal is accepted, the Bidder is to provide all of the necessary equipment, tools, apparatus, labor, and other means of construction, and to do all of the Work and to furnish all of the materials specified in the Contract Documents in the manner and at the time therein prescribed, and in accordance with the requirements set forth.
- VI. To furnish Bid Bond in accordance with the Instructions to Bidders.
- VII. To furnish Performance/Labor and Material Payment Bond in accordance with the Instructions to Bidders.
- VIII. To commence work as specified in the Instructions to Bidders and to prosecute the Work in such a manner and with sufficient materials, equipment and labor as will ensure its completion within reasonable time, it being understood and agreed that the completion within such reasonable time is an essential part of this Contract.
- IX. To give the total base bid amount, the total add alternate and/or subtract alternate amounts (if requested) both in words and in figures. The total bid amount in each case shall be the sum of all of the total item amounts as applicable and as described above.
- X. That he has checked carefully the bid figures and understands that he shall be responsible for any errors or omissions based on these Specifications and alternates as submitted on the Bid Proposal Form.
- XI. That any and all prices stated in the proposal include all costs of labor, materials, equipment, insurance, bonds, overhead and profit, and any and all other costs normal to doing business.
- XII. That it is understood and agreed that the Northbrook Park District reserves the right to waive any technicalities and to accept or reject any or all bids, or to combine or separate any section or work, or to award to one Bidder for the entire Project or to any combination of Bidders for any portion(s) of the Project.

**Bidders are responsible for verifying their own quantities. This worksheet is for use in calculating the lump sum amount. Contractor is required to alert Park District of any discrepancies prior to bidding the work. Failure to recognize the required quantities to complete the work shall be at the expense of the contractor. No consideration shall be given for additional compensation after the letting of bids.**

Bidder agrees to perform all of the Work described in the Contract Documents for the following price:

BASE BIDS	SF	UNIT PRICE	TOTAL
Greenfield Park Pathways – Sealcoat, Crackfill & Stripe			
Wescott Park Pathways – Sealcoat, Crackfill & Stripe			
West Park Pathways – Sealcoat, Crackfill & Stripe			
Sports Center / West Park Parking Lots – Sealcoat, Crackfill & Stripe (half the lot must remain open at all times)			
Village Green Parking – Sealcoat, Crackfill & Stripe			
<b>TOTAL BASE QUOTE OF ALL SITES COMBINED</b>			

**Basic Unit Pricing List**

TYPE	UNIT	UNIT PRICE
<b>Full Depth HMA Parking Lot –Remove &amp; Replace</b>	SF	
<b>Full Depth HMA Pathway - Remove and Replace</b>	SF	
<b>Asphalt 2" Grind &amp; 2" Overlay</b>	SF	
<b>Catch Basin Repair – Remove &amp; Replace 8'x8' around catch basin (raise or lower by 1(one) ring as needed)</b>	EA	
<b>Installation of Additional Ring to Raise Height of Catch Basin</b>	EA	
<b>Concrete Curb Remove and Replace</b>	LF	
<b>Asphalt Crack Fill #3405 Hot Crackfiller</b>	LF	
<b>Non-Coal Tar Asphalt Squeegee Sealcoating</b>	SF	
<b>GRAPHENE ES Squeegee Sealcoating</b>	SF	
<b>Pavement Marking</b>	LF	
<b>Removal and replacement of unsuitable materials with crushed CA-6 stone (CY)</b>	CY	
<b>Additional Mobilization for Asphalt</b>	EA	
<b>Additional Mobilization for Concrete</b>	EA	

Are you able to meet all the scheduling requirements? (circle)      YES   /   NO



### **SUBCONTRACTORS AND SUPPLIERS LIST**

The subcontractors and suppliers listed below will be involved in this contract work in the assignments listed. We understand that any deviation from this list must be requested and approved in writing ten (10) days before the start of the work that is involved.

**Failure to complete this list will result in rejection of bid.**

Legal name, current telephone number and address of all subcontractors must be included.

#### **Subcontractors/Assignment**

<b>Legal Name</b>	<b>Address</b>	<b>City, State, Zip</b>	<b>Telephone</b>
1.			
2.			
3.			
4.			

#### **Suppliers/Materials**

<b>Legal Name</b>	<b>Address</b>	<b>City, State, Zip</b>	<b>Telephone</b>
1.			
2.			
3.			
4.			

## **CONTRACTOR COMPLIANCE AND CERTIFICATIONS ATTACHMENT**

**Note: The following certifications form an integral part of the Agreement between the Owner and Contractor. Breach by Contractor of any of the certifications may result in immediate termination of the Contractor's services by Owner.**

THE UNDERSIGNED CONTRACTOR HEREBY ACKNOWLEDGES, CERTIFIES, AFFIRMS AND AGREES AS FOLLOWS:

- I. Contractor has carefully read and understands the contents, purpose and legal effect of this document as stated above and hereafter in this document. The certifications contained herein are true, complete and correct in all respects.
- II. Contractor shall abide by and comply with, and in contracts which it has with all persons providing any of the services or Work on this Project on its behalf shall require compliance with, all applicable Federal, State and local laws and rules and regulations, including without limitation those relating to 1) fair employment practices, affirmative action and prohibiting discrimination in employment; 2) workers' compensation; 3) workplace safety; 4) wages and claims of laborers, mechanics and other workers, agents or servants in any manner employed in connection with contracts involving public funds or the development or construction of public works, buildings or facilities; and 5) steel products procurement.
- III. All contracts for this Project are subject to the provisions of the *Illinois Prevailing Wage Act (820 ILCS 130/0.01 et seq.)*, providing for the payment of the prevailing rate of wage to all laborers, workmen and mechanics engaged in the Work. Contractor shall pay prevailing rates of wages in accordance with the wage determination issued by the Illinois Department of Labor and any subsequent determinations issued by the Illinois Department of Labor, all in accordance with applicable law. These revisions may be accessed by computer at <http://labor.illinois.gov/>. Contractor is responsible for determining the applicable prevailing wage rates at the time of bid submission and at the time of performance of the Work. Failure of Contractor to make such determination shall not relieve it of its obligations in accordance with the Contract Documents. Contractor also shall comply with all other requirements of the Act, including without limitation those pertaining to inclusion of required language in subcontracts, job site posting, maintenance and submission of certified payroll records and inspection of records. Contractor is not barred from entering into public contracts under Section 11a of the *Illinois Prevailing Wage Act* due to its having been found to have disregarded its obligations under the Act.
- IV. To the best of Contractor's knowledge, no officer or employee of Contractor has been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois or any unit of local government, nor has any officer or employee made an admission of guilt of such conduct that is a matter of record.
- V. Contractor is not barred from bidding on or entering into public contracts due to having been convicted of bid-rigging or bid rotating under paragraphs 33E-3 or 33E-4 of the *Illinois Criminal Code*. Contractor also certifies that no officers or employees of the Contractor have been so convicted and that Contractor is not the successor company or a new company created by the officers or owners of one so convicted. Contractor further certifies that any such conviction

occurring after the date of this certification will be reported to the Owner immediately in writing, if it occurs during the bidding process, or otherwise prior to entering into the Contract therewith.

- VI.** Pursuant to the *Illinois Human Rights Act (775 ILCS 5/2-105)*, Contractor has a written sexual harassment policy that includes, at a minimum, the following information: (i) a statement on the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment, utilizing examples; (iv) the Contractor's internal complaint process, including penalties; (v) the legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and directions on how to contact both; and (vi) protection against retaliation as provided by Section 6-101 of the *Illinois Human Rights Act*. Contractor further certifies that such policy shall remain in full force and effect. A copy of the policy shall be provided to the Illinois Department of Human Rights upon request.
- VII.** Contractor shall abide by the "*Employment of Illinois Workers on Public Works Act*" (30 ILCS 570/0.01 et seq.), which stipulates that whenever there is a period of excessive unemployment in Illinois, defined as any month immediately following two (2) consecutive calendar months during which the level of unemployment in Illinois exceeds five percent (5%) as measured by the U.S. Bureau of Labor Statistics in its monthly publication of employment and unemployment figures, the Contractor shall employ only Illinois laborers unless otherwise exempted as so stated in the Act. ("Illinois laborer" means any person who has resided in Illinois for at least 30 days and intends to become or remain an Illinois resident). Other laborers may be used if Illinois laborers are not available or are incapable of performing the particular type of work involved, if so certified by the Contractor and approved by the Owner.
- VIII.** (i) Contractor's bid proposal was made without any connection or common interest in the profits anticipated to be derived from the Contract by Contractor with any other persons submitting any bid or proposal for the Contract; (ii) the Contract terms are in all respects fair, and the Contract will be entered into by Contractor without collusion or fraud; (iii) no official, officer or employee of the Owner has any direct or indirect financial interest in Contractor's bid proposal or in Contractor, (iv) the Contractor has not directly or indirectly provided, and shall not directly or indirectly provide, funds or other consideration to any person or entity (including, but not limited to, the Owner and the Owner's employees and agents), to procure improperly special or unusual treatment with respect to this Agreement or for the purpose of otherwise improperly influencing the relationship between the Owner and the Contractor. Additionally, the Contractor shall cause all of its officers, directors and employees (as the case may be) to comply with the restrictions contained in the preceding sentence.
- IX.** Contractor knows and understands the *Equal Employment Opportunity Clause* administered by the Illinois Department of Human Rights, which is incorporated herein by this reference, and agrees to comply with the provisions thereof. Contractor further certifies that Contractor is an "equal opportunity employer" as defined by Section 2000 (e) of Chapter 21, Title 42 of the *United States Code Annotated and Executive Orders #11246 and #11375* as amended, which are incorporated herein by this reference.
- X.** Neither Contractor nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the *U.S. Export*

*Administration Act of 1979* or the regulations of the U.S. Department of Commerce promulgated under that Act.

- XI.** Contractor is not barred from contracting with the Owner because of any delinquency in the payment of any tax administered by the Illinois Department of Revenue, unless it is being contested. Contractor further certifies that it understands that making a false statement regarding delinquency in taxes is a Class A misdemeanor and, in addition, voids the Contract and allows the Owner, a municipal entity, to recover in a civil action all amounts paid to the Contractor.
- XII.** If Contractor has 25 or more employees at the time of letting of the Contract, Contractor knows, understands and acknowledges its obligations under the *Illinois Drug Free Workplace Act (30 ILCS 580/1 et seq.)* and certifies that it will provide a drug-free workplace by taking the actions required under, and otherwise implementing on a continuing basis, Section 3 of the *Drug-Free Workplace Act*. Contractor further certifies that it has not been debarred and is not ineligible for award of this Contract as the result of a violation of the *Illinois Drug-Free Workplace Act*.
- XIII.** Contractor knows, understands and acknowledges its obligations under the *Substance Abuse Prevention on Public Works Act, 820 ILCS 265/1 et seq.* A true and complete copy of Contractor's Substance Abuse Prevention Program Certification is attached to and made a part of this Contractor Compliance and Certification Attachment.
- XIV.** The Contractor shall comply with the requirements and provisions of the *Freedom of Information Act (5 ILCS 140/1 et. seq.)* and, upon request, of the Northbrook Park District's designated Freedom of Information Act Officer (FOIA Officer). Contractor shall within two (2) business days of said request turn over to the FOIA Officer any record in the possession of the Contractor that is deemed a public record under FOIA.

Sign and Date: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Print Name & Title: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

\_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

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**STATE OF** \_\_\_\_\_ **SS. COUNTY OF** \_\_\_\_\_

I, the undersigned, a notary public in and for the State and County aforesaid, hereby certify that

\_\_\_\_\_ appeared before me this day in person and, being first duly sworn on oath, acknowledged that he is authorized to act on behalf of Bidder and that he executed the foregoing certificate as his free act and deed and as the act and deed of Bidder.

Dated: \_\_\_\_\_ 20 \_\_\_\_\_

Notary Public: \_\_\_\_\_

## **SUBSTANCE ABUSE PREVENTION PROGRAM CERTIFICATION**

The *Substance Abuse Prevention on Public Works Projects Act, 820 ILCS 265/1 et seq. ("Act")*, prohibits any employee of the Contractor or any Subcontractor on a public works project from using, possessing or being under the influence of a drug or alcohol, as those terms are defined in the Act, while performing work on the project. The Contractor/Subcontractor **[circle one]**, by its undersigned representative, hereby certifies and represents to the Northbrook Park District that **[Contractor/Subcontractor must complete either Part I or Part II below]:**

- I. The Contractor/Subcontractor **[circle one]** has in place – for all of its employees not covered by a collective bargaining agreement that deals with the subject of the Act – a written substance abuse prevention program, a true and correct copy of which is attached to this certification, that meets or exceeds the requirements of the *Substance Abuse Prevention on Public Works Act, 820 ILCS 265/1 et seq.* **[Contractor/Subcontractor must attach a copy of its substance abuse prevention program to this Certification.]**

\_\_\_\_\_  
Name of Contractor/Subcontractor (print or type)

\_\_\_\_\_  
Name and Title of Authorized Representative (print or type)

\_\_\_\_\_  
Signature of Authorized Representative

Dated: \_\_\_\_\_

- II. The Contractor/Subcontractor **[circle one]** has one or more collective bargaining agreements in effect for all of its employees that deal with the subject matter of the *Substance Abuse Prevention on Public Works Projects Act, 820 ILCS 265/1 et seq.*

\_\_\_\_\_  
Name of Contractor/Subcontractor (print or type)

\_\_\_\_\_  
Name and Title of Authorized Representative (print or type)

\_\_\_\_\_  
Signature of Authorized Representative

Dated: \_\_\_\_\_

### **AFFIDAVIT OF EXPERIENCE**

\_\_\_\_\_, being duly sworn, says that he is

\_\_\_\_\_ of \_\_\_\_\_,  
(Sole Owner, Member of Firm, Corporate Official) (Individual, Firm, Corporate Name)

which has done work for the following parties of or the general kind and approximate magnitude required under this Contract: (list project name, contact, phone number and date of completion). I/we hereby authorize the Northbrook Park District to contact the individuals listed below. Please list at least five (5) projects of similar cost and scope in the last three (3) years.

<b>Project Name/Owner &amp; Project Scope</b>	<b>Contact Name &amp; Title</b>	<b>Phone &amp; Email (both REQUIRED)</b>	<b>Completion Date &amp; Project Value</b>
<b>1.</b>			
<b>2.</b>			
<b>3.</b>			
<b>4.</b>			
<b>5.</b>			

\_\_\_\_\_  
Signature

\*\*\*\*\*

STATE OF ILLINOIS  
SS. COUNTY OF COOK

I, the undersigned, a notary public in and for the State and County aforesaid, hereby certify that

\_\_\_\_\_ appeared before me this day in person and, being first duly sworn on oath, acknowledged that he is authorized to act on behalf of Bidder and that he executed the foregoing Affidavit as his free act and deed and as the act and deed of Bidder.

Dated: \_\_\_\_\_ 20 \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

(Notary Seal)

Notary Public: \_\_\_\_\_

## **REQUIRED BIDDER INFORMATION**

*The following information must be attached to the bid proposal. Failure to do so may result in disqualification of the Bidder. These may be listed on a separate sheet.*

- i. List all construction projects your organization has in progress, giving the name of the project, project description, project address, owner and telephone number, architect and telephone number, contract amount, percent complete, and scheduled completion date.

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- ii. List all construction projects your organization has completed in the past two years that are comparable in scope, giving the name of the project, project description, project address, owner and telephone number. Also provide the original contract amount, the final contract amount, the substantial and final completion dates provided for in the contract, and the actual dates of substantial and final completion. Where the final contract amount is materially greater than the contract amount included in the contract at the time of execution by both parties, provide an explanation of the reason(s) for the increase. Where the actual dates of substantial and/or final completion differ from those dates as included in the contract at time of execution by both parties, explain the reason for the delay in the substantial and/or final completion of the Work.

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- iii. List all administrative proceedings and litigation filed by or against Bidder in the past five (5) years, including the name and case number, name/jurisdiction of the court or administrative agency, and a summary of each claim/case, including current status and – if no longer pending – the disposition. The foregoing includes but is not limited to information regarding any proceedings and actions taken by any governmental agency to debar or disqualify the Bidder from bidding on public contracts, including the name of the agency initiating the proceeding/action, the nature of the proceeding/action, the claimed basis for the proceeding/action, and the current status or disposition of the proceeding/action.

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- iv. Indicate all instances in which Bidder has been rejected for not being a responsible bidder, giving the name of the project, project description, project address, owner and telephone number, architect and telephone number, contract amount, and an explanation of the circumstances surrounding the rejection.

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- v. Provide a list of all contracts to which you were a party and with respect to which you were declared to be in breach of one or more provisions, giving the type of contract, the project location where applicable, the names and addresses of the parties to the contract, the name of the party declaring the breach, the nature of the claimed breach and current status or resolution of the claim. If it is a construction contract, also provide the name, address and telephone number of the architect and, if applicable, the construction manager or owner's representative.

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## **PROJECT SCOPE**

Unless otherwise indicated, the use of brand names in the following Specifications are used for the purpose of establishing a grade or quality. Bidders proposing to use an alternate that is equal to or superior to that required by the Specifications must request approval in writing to the Park District in accordance with Section X of the Instruction to Bidders.

- 1) Greenfield Park: Pathways & Bleacher Pads**
  - a. *Non-coal Tar Sealcoal and Crackfill*
  - b. *Any necessary site restoration*
  - c. *See Exhibit C for details*
  
- 2) Wescott Park: Pathways**
  - a. *Non-coal Tar Sealcoal and Crackfill*
  - b. *Any necessary site restoration*
  - c. *See Exhibit D for details*
  
- 3) West Park: Pathways & Bleacher Pads**
  - a. *Non-coal Tar Sealcoal and Crackfill*
  - b. *Any necessary site restoration*
  - c. *See Exhibit E for details*
  
- 4) Northbrook Sports Center: Parking Lot**

*\*Must keep half the lot open at all times.*

  - a. *Non-coal Tar Sealcoal, Crackfill & Stripe*
  - b. *Any necessary site restoration*
  - c. *See Exhibit E for details*
  
- 5) Village Green Center: Parking Lot**
  - a. *Non-coal Tar Sealcoal, Crackfill & Stripe*
  - b. *Any necessary site restoration*
  - c. *See Exhibit F for details*

***\*All other and incidental work necessary to complete the project as outlined in the contract documents.***

**END OF SECTION**

**BIDDING AND CONTRACT REQUIREMENTS**  
**Document 01570 – Traffic Regulation**

**ARTICLE 1 - GENERAL**

**1.01 *Description***

A. Contractor shall be solely responsible to keep work areas open to pedestrian and vehicular traffic to maximum extent practical and to provide safe passage of such traffic and continuous access for emergency vehicles. Full closure of the bituminous path/trail and adjacent pedestrian areas must be approved by the Owner prior to undertaking the closure.

B. Provide, install and maintain items such as barricades, beacons warning signs, temporary pavement markings, lane delineators, temporary fencing, flag persons and other appurtenances to protect pedestrian traffic, vehicular traffic, and Contractor's own work forces during construction operations as described in Specification section.

C. Remove temporary equipment and facilities when no longer required; restore area to original condition.

**1.02 *Quality Assurance***

A. Requirements of Regulatory Agencies:

1. Occupational Safety and Health Act (OSHA) applicable provisions.

B. Reference Standards:

1. Illinois Department of Transportation
  - a. Standard Specifications for Road and Bridge Construction (Current Edition)  
(IDOTSPECS).
2. Illinois Department of Transportation. Bureau of Design.
  - a. Highway Standards (ILHWSTDS).
3. Illinois Department of Transportation. Bureau of Local Roads.
  - a. BLR Standard 17-3 - Standard Design Typical Application of Traffic Control Devices for Day Labor Construction on Rural Local Highways.
  - b. BLR Standard 21-6 - Standard Design Typical Application of Traffic Control Devices for Contract Construction on Rural Local Highways.

**1.03 *Submittals***

A. Traffic Control Schedule:

1. Submit traffic control schedule of street, walkway and bituminous path/trail closings, partial closings and detours prior to implementation.
2. Submit updates as necessary to keep Owner fully informed of traffic routing.

TRAFFIC REGULATION  
01570-1

3. Owner will review schedules and updates only for maintenance of adequate traffic patterns within and through construction areas.
  - a. Owner's review and acceptance shall not be construed as confirming adequacy of protection measure proposed.
  - b. Owner will notify residents of construction schedules and traffic plans. Contractor shall be solely responsible for full protection of public and Contractor's own forces.
4. Work will not be allowed until Owner has reviewed and accepted traffic control schedules and updates as well as their implementation.

## **ARTICLE 2 - PRODUCTS**

### **2.01 *Materials***

- A. Traffic control materials shall conform to following:
  1. IDOTSPECS Section 701.
  2. ILHWSTDS Section F.
  3. OSHA applicable provisions.

## **ARTICLE 3 - EXECUTION**

### **3.01 *General***

- A. Provide traffic control as outlined on the Drawing (when applicable) and as described in this section.

### **3.02 *Traffic Control Schedule***

- A. Prepare plan for pedestrian and vehicular traffic control compatible with construction procedures employed in each construction area. Incorporate proposed construction sequencing to form continuous traffic control schedule.

- B. Include detailed descriptions of proposed procedures for pedestrian and vehicular traffic routing and protection in immediate construction area and surrounding area during both working and non-working hours.

### **3.03 *Vehicular Traffic Control***

- A. Provide traffic control for work in or adjacent to streets and bituminous path/trail as described.
- B. General Requirements:
  1. The minimum requirement for traffic control is described herein. Contractor shall institute any other measures necessary to ensure safety of vehicular and pedestrian traffic.
  2. For streets and paths/trails along or in which construction is occurring and for areas where construction vehicles are entering or leaving streets, warning signs informing traffic of construction activities ahead and restricting roadway to local traffic only shall be posted.
  3. When it is necessary to completely close a street, as determined by the Engineer and approved by the Owner, detour signs shall be posted under the supervision of the Engineer so that traffic can be properly rerouted around the construction site.

TRAFFIC REGULATION  
01570-2

4. For unpaved trenches and other disturbed areas in pavement: Provide flashing light barricades, Type I or II, to channelize traffic into undisturbed pavement.
5. At cross-streets and alleys: Flashing light barricades, Type III, to screen off disturbed areas in trenches.
6. Grade backfilled trenches uniformly to permit safe crossing by vehicles.

C. During Working Hours:

1. Driveways: Open to maximum practical extent. Maximum duration of closure – 4 hours except for replacement of driveway.
2. Sidewalks, Paths, Trails and Crosswalks: Open to maximum practical extent.
3. Alleys: Closed to through traffic; open to adjoining property to maximum practical extent.
4. Two-lane streets: One lane continuously open in alternating directions controlled by flag persons.

D. During Non-Working Hours:

1. Driveways: Open except for replacement of driveway.
2. Sidewalks, Paths, Trails and Crosswalks: Open except for replacement of walks or path/trails.
3. Alleys: Open, one-way travel restrictions permitted.
4. Two-lane street: Both lanes continuously open.

E. Barricade and warning sign arrangements shall conform to the following ILHWSTDS as minimum. The specific type of arrangement to be utilized shall be determined by Engineer.

1. Full closure local traffic permitted BLR Standard 17-3.
2. Full closure no traffic permitted BLR Standard 17-3.
3. Full closure local traffic permitted BLR Standard 21-6.
4. Full closure no traffic permitted BLR Standard 21-6.

F. Provide more extensive warnings, markings and controls in areas having special local conditions such as:

1. High daily or hourly traffic volumes.
2. Unusual turning patterns.
3. Moderate to high pedestrian traffic.
4. School zones.
5. Hospitals or other emergency care facilities.
6. Police, fire, ambulance, civil defense or other emergency services.
7. Public works facilities.

G. Specific Requirements:

1. Maintain the following throughout the duration of the work.
  - a. Two-way traffic at all times.
  - b. During working hours as construction crosses road, maintain two-way traffic, one lane open with flag persons to alternate traffic flow. Work will not cross one-way, one-lane traffic.
  - c. Parking restricted where necessary.

TRAFFIC REGULATION  
01570-3

3.04 *Pedestrian Traffic Control*

A. The minimum requirements for pedestrian traffic control are described herein. Contractor shall institute the requirements and any other measures necessary to protect pedestrians and residents from construction operations and from vehicular traffic traveling through construction area.

B. During working hours, provide Type I or II barricades to protect public from open excavations, wet paint, wet concrete, other construction operations, stockpiled materials, construction equipment and vehicular traffic.

C. Control excavation operations so size of open excavation at end of each work day is minimum as specified in Section 02200.

D. Upon stopping construction operations for the day, provide and install temporary fencing, 4 ft. high minimum around open excavations and rough terrain areas. Lock and shutter construction equipment.

E. Stockpile materials so as not to block streets, alleys, drives, sidewalks, and crosswalks. Grade backfilled trenches uniformly to permit safe crossing by pedestrians.

### *3.05 Traffic Control for Contractor's Equipment, Incidental to Contract*

A. Operate construction equipment in accordance with applicable traffic laws and safety regulations.

B. Equip equipment with warning lights and audible warning devices as minimum.

C. Where equipment enters or leaves public roadways, provide warning signs and barricades. In moderate and high vehicular traffic volume areas, provide flag persons or temporary traffic signals to control traffic and aid travel of construction equipment. In moderate or high pedestrian traffic areas, provide flag persons to control traffic.

TRAFFIC REGULATION  
01570-4

**END OF SECTION**

**BIDDING AND CONTRACT REQUIREMENTS**  
**Document 01560 - Protection of Environment**

**ARTICLE 1 - GENERAL**

1.01 *Description*

- A. CONTRACTOR, in executing work, shall maintain work areas on- and off-site free from environmental pollution that would be in violation of any federal, state or local regulations.

1.02 *Protection of Sewers*

- A. Take adequate measures to prevent impairment of operation of existing sewer system. Prevent construction material, pavement, concrete, earth, or other debris from entering sewer or sewer structure.
- B. Divert sewage flow interfering with construction to sewers leading to wastewater treatment plant. Prior to commencing excavation and construction, submit for review, detailed plans, including routing and connections, required to handle and dispose of sanitary wastes. By reviewing plan, OWNER neither accepts responsibility for adequacy thereof nor for damages to public or private property resulting therefrom, such responsibilities remain with CONTRACTOR.

1.03 *Protection of Waterways*

- A. Observe rules and regulations of State of Illinois and agencies of U.S. government prohibiting pollution of any lake, stream, river or wetland by dumping of refuse, rubbish, dredge material or debris therein.
- B. Provide holding ponds or approved method which will handle, carry through, or divert around work flows, including storm flows and flows created by construction activity, so as to prevent excessive silting of waterways or flooding damage to property.
- C. Comply with procedures outlined in U.S. EPA manuals entitled, "Guidelines for Erosion and Sedimentation Control Planning and Implementation," Manual EPA-72-015 and "Processes, Procedures, and Methods to Control Pollution Resulting from All Construction Activity," Manual EPA 43019-73-007.

1.04 *Disposal of Excess Excavated and Other Waste Materials*

- A. Dispose of excess excavated material not required or suitable for backfill and other waste material in a lawful manner.

1.05 *Protection of Air Quality*

- A. Minimize air pollution by wetting down bare soils during windy periods, requiring use of properly operating combustion emission control devices on construction vehicles and equipment used by CONTRACTORS, and encouraging shutdown of motorized equipment not actually in use.

- B. Trash burning will not be permitted on construction site.
- C. If temporary heating devices are necessary for protection of work, such devices shall be of type that will not cause air pollution.

#### 1.06 *Use of Chemicals*

- A. Chemicals used during project construction or furnished for project operation, whether herbicide, pesticide, disinfectant, polymer, reactant, or of other classification, must show approval of either U.S. EPA or U.S. Department of Agriculture or any other applicable regulatory agency.
- B. Use of such chemicals and disposal of residues shall be in conformance with manufacturer's instructions.

#### 1.07 *Noise and Dust Control*

- A. Conduct operations to cause least annoyance to residents in vicinity of work, and comply with applicable local ordinances.
- B. Equip compressors, hoists, and other apparatus with such mechanical devices as may be necessary to minimize noise and dust. Equip compressors with silencers on intake lines.
- C. Equip gasoline or oil operated equipment with silencers or mufflers on intake and exhaust lines.
- D. Line storage bins and hoppers with material that will deaden sounds.
- E. Conduct operation of dumping rock and of carrying rock away in trucks so as to cause minimum of noise and dust.
- F. Provide unpaved streets, roads, detours, or haul roads used in the construction area with an application of water to minimize dust. The ENGINEER shall direct the CONTRACTOR as to when and where the water is required and to the rate of application. Keep paved areas clean and free of materials contributing to dust. Applicable environmental regulations for dust prevention will be strictly enforced.

All watering described herein shall be done with a spray application. An open end hose will not be acceptable. The method of watering shall meet the approval of the ENGINEER.

#### 1.08 *Pile and Sheet Pile Driving Noise*

- A. If piles are required, use only pile driver hammers with mufflers capable of significantly reducing noise and use barriers and/or shielding techniques as necessary to comply with applicable federal, state, and local ordinances.

### **END OF SECTION**

**ARTICLE 1 - GENERAL**

1.01 *Description*

A. Description of Work:

1. Remove site objects which obstruct construction.
2. Restore site objects disturbed by construction including, but not limited to, utilities, traffic signs, street lights, traffic signals, mail boxes, fences, guard rails, right-of-way markers, survey monuments, lot pins, driveway markers, structures, items intended to inform or protect the public, and other surface objects.

1.02 *Quality Assurance*

A. Conditions Survey:

1. Provide video recordings in accordance with Submittal Section and other documentation to establish condition of existing structures and surface features.
2. Survey and record condition of existing facilities to remain in place that may be affected by construction operations.

B. Preparation Work:

1. Notify owners of existing utilities a minimum of three workdays prior to beginning preparation work.
2. Remove only those site objects within construction limits which are designated for removal on drawings or as directed by Engineer.
3. Do not remove site objects outside construction limits.
4. Protect existing utilities and maintain them in operation during construction except as specified elsewhere in the Contract Documents.
5. Provide traffic control in accordance with Traffic Regulation Section.
6. Dispose of materials in legal manner in accordance with Protection of Environment Section 01560.
7. Engineer shall make the final determination and mark with paint or ribbon which trees and shrubs shall be trimmed or removed. Contractor shall be responsible for the trimming and removal of all trees, shrubs, trunks and roots of trees and shrubs.

C. Restoration Work:

1. Restore to conditions equal to or exceeding conditions existing prior to construction as determined by video recordings and survey.

D. Reference Standard:

1. Illinois Department of Transportation Standard Specifications for Road & Bridge Construction, (Current Edition). (IDOTSPECS)

**ARTICLE 2 - PRODUCTS**

(Not Applicable)



## **ARTICLE 3 - EXECUTION**

### **3.01   *Site Preparation***

#### **A. Site Improvement Objects:**

1. Carefully remove all site improvement objects such as street name signs, traffic control signs, mail boxes, and lawn ornaments which interfere with construction.
2. Store site improvement objects in a manner which will fully protect objects for replacement after construction is completed.
3. Provide temporary traffic control signs where permanent signs are removed for construction. Temporary signs shall be worded to match permanent signs except as necessary to be compatible with construction operations.

### **3.02   *Site Restoration***

#### **A. Site Improvement Objects; Cost Incidental to Contract**

1. Reinstall site improvement objects removed for construction in their original location.
2. Repair any damage to site improvement objects which occurred during removal, storage, and reinstallation.
3. Replace any improvement object irreparably damaged, in Engineer's sole opinion. Contractor shall be responsible for making immediate arrangements to repair any damaged site objects. Contractor shall not be permitted to continue working unless the site objects have been repaired or arrangements have been made for repairs to the satisfaction of the Engineer.

**END OF SECTION**

**BIDDING AND CONTRACT REQUIREMENTS**  
**Document 02510 - Asphalt Paving**

**1.0 General Description**

- A. Standards  
All work required under this section shall conform to the current edition of the "ILLINOIS DEPARTMENT OF TRANSPORTATION, STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION".
- B. This work shall consist of the placement of aggregate base, prime coat, bituminous binder and surface courses, and line painting.

**1.1 Submittals**

- A. The Contractor must submit gradation tables including name and location of supplier for review and approval.
- B. The Contractor must submit batch mixing reports including name and location of supplier for review and approval.

**1.2 Product Handling**

- A. All aggregate base course materials delivered to the project site must have adequate moisture content and must be machine spread and compacted each day.
- B. All bituminous materials shall be delivered to the project site in covered trucks, to permit the mixture to retain adequate heat content. All bituminous materials delivered to the project site must be spread and compacted within 2 hours of mixing.

**1.3 Environmental Conditions**

- A. Coarse Aggregate Base Course: May not be dumped or spread on frozen, wet or muddy subgrade or when weather conditions make the subgrade impassible for spreading or compacting.
- B. Bituminous Materials: Paving may only take place within the temperature ranges set forth in the IDOT Specifications.
- C. Line and Symbol Painting may only be completed when the when air temperature is above 45 degrees F and when no adverse weather conditions are forecast near the project site.

**1.4 Protection**

- A. All bituminous surfaces must be sufficiently cured and cooled off prior to opening up area to vehicle traffic.
- B. All painted surfaces must be sufficiently cured for a minimum of twelve (12) hours prior to opening up the area to vehicle traffic.

**2.0 Products and Materials**

- A. Coarse Aggregate for Base Course
  - 1. Shall comply with the applicable Section of the IDOT Specifications.
  - 2. Quality: Shall be Class D or better.
  - 3. Gradation: CA-6
  - 4. Base Course: Shall be Type A
- B. Bituminous Concrete
  - 1. Shall comply with the applicable Section of the IDOT Specifications.
  - 2. Prime: Shall comply with the applicable Section of the IDOT Specifications.

3. Binder Course: Shall be Class 1, Mixture "B", installed to the compacted thickness indicated on plan.
  4. Surface Course: Shall be Class 1, Mixture "C", installed to the compacted thickness indicated on plan.
- C. Line and Symbol Paint: Unless otherwise indicated on the plan notes, all paint used will be white or yellow in color and must adhere to the surface on which it is applied.

## **2.1 Mixes and Portions**

- A. Coarse Aggregate for Base Course: Gradation No. CA-6.
- B. Bituminous Concrete
  1. Binder Course - Shall comply with the applicable Section of the IDOT Specifications.
  2. Surface Course - Shall comply with the applicable Section of the IDOT Specifications.

## **2.2 Equipment**

All equipment used to perform this work shall conform to the applicable section of the IDOT Specifications.

## **3.0 Execution and Installation**

- A. All sub-grade areas must be reviewed and approved by the Landscape Architect Prior to any aggregate base course installation. All aggregate base courses must be reviewed and approved by the Landscape Architect Prior to any bituminous paving.
- B. The Contractor must conduct a proof roll of all clay subgrades prior to placement of aggregate base course. The proof roll will involve the rolling of a fully loaded dump truck over the clay subgrade and must be witnessed by a Geotechnical Engineer. The scheduling and payment of fees for the Geotechnical Engineer will be completed and borne by the Owner. Should the Geotechnical Engineer witness and report any soft or yielding conditions, arrangements will need to be made to correct this condition prior to the placement of the aggregate base course.
- C. Coarse Aggregate Base Course
  1. Install geofabric if specified on the plans or details.
  2. Install on a properly graded, prepared and approved subgrade. Course Aggregate Base Course must be installed in layers not exceeding 4" thick when compacted.
- D. Bituminous Concrete Binder and Surface Courses
  1. Prime coat must be installed on the approved aggregate base a minimum of 24 hours prior to installation of Bituminous Concrete Binder Course. Prime coat shall be applied at a rate of 0.5 gallons per square yard. Excess prime on surface must be removed prior to bituminous concrete installation by blotting with sand.
  2. Bituminous concrete binder and surface courses must then be installed to the compacted thickness as indicated on the plans and details. Bituminous concrete must be installed in a timely manner to maintain the heat content in the mixture and minimize or eliminate visible seams.
- E. Line and Symbol Paint
  1. Line and Symbol paint may only be applied after the surface has been cleared of all debris including oils, dust, mud, and leaves, etc.
  2. Apply two coats of paint following the manufacturer's instructions.

3. All painted roadway and parking symbols must conform to Illinois Department of Transportation specifications.

### **3.2 Compaction**

- A. Coarse Aggregate Base Course: Shall be compacted to not less than 100% maximum density determined in accordance with AASHTO T 99-01, Method A or C. Density of compacted base course shall be determined at regular intervals using AASHTO T 191-02.
- B. Bituminous Concrete: Binder and surface courses shall be compacted to a density of not less than 93% of the material's maximum theoretical density as determined by Illinois Modified AASHTO T 209. Compaction methods shall conform to the applicable section of the IDOT Specifications.

**End of Section 02510**

**BIDDING AND CONTRACT REQUIREMENTS**  
**Document 02513 - Asphalt Paving Paths**

**PART 1 GENERAL**

The Contractor shall provide all labor, materials, and equipment necessary to furnish and install all Asphalt Paving as required by the drawings and specifications.

**1 .01 DESCRIPTION**

A. Asphalt Paving. Provide asphalt concrete paving as shown as specified. The work includes:

1. Final subgrade preparation and paving base
2. Carpath and walkway paving
3. Repairing existing asphaltic concrete paving

**1 .02 QUALITY ASSURANCE**

A. Requirements. The Contractor shall be solely responsible to ensure that all work is in compliance with all applicable local, state, and federal requirements regarding materials, methods

B. Material Supplier. Provide material furnished by a bulk asphaltic concrete producer regularly engaged in the production of hot-mix, hot-laid asphaltic concrete paving materials.

C. Tolerances.

1. In-place compacted thickness:
  - (a) Base Course: Maximum 1 /2"  $\pm$
  - (b) Surface Course: Maximum 1 /4" +
2. Finished Surface Smoothness:
  - (a) Base Course: Maximum 3/8" in 1 0'-0"
  - (b) Surface Course: Maximum 1 /4" in 1 0'-0" any direction

**1.03 PROJECT CONDITIONS**

A. Existing Conditions. Prior to and during the performance of the work, inspect and note surface and subsurface conditions on site and as presented by drawings and specifications. Notify Owner of conflicts or discrepancies prior to commencing or continuing site construction. Examine proposed construction areas and conditions of construction. Do not start or continue construction work until unsatisfactory conditions are corrected.

B. Existing Utilities and Services. Underground and surface utility lines and services are indicated on the drawings, according to best available information. Contractor shall locate and identify existing underground and overhead services and utilities within contract limit work areas. Provide adequate means of protection for utilities,

services, and on-site improvements designated to remain. Perform construction work near utilities and services by hand. Repair utilities, services, and site improvements damaged during construction at Contractors expense.

C. Weather Limitations.

- 1 , Do not install base course materials over wet or frozen subgrade surfaces.
2. Do not apply prime and tack coat materials when temperature is 60 degrees F., or below. Do not apply to wet base surfaces.
3. Install asphalt surface materials only when base is dry and air temperature is 60 degrees F., or above.

C. Grade Control. Establish and maintain the required lines and grades; including crown, inverted crown, and cross-slopes, for each course during paving operations.

## **PART 2 PRODUCTS**

### **2.01 MATERIALS**

A. Fill Material. All fill materials shall contain no sod, brush, roots, or other perishable materials. All fill materials shall be free of stones larger than four (4) inches in diameter, and shall not contain trash or debris from other construction operations.

1. Excavated materials removed in earthwork excavation operations may be used as fill material.

B. Subgrade Fill. Subgrade fill shall be inert subsoil material free of organic matter, rubbish, debris, and rocks greater than 4" in diameter.

C. Backfill Material. All backfill material shall contain no sod, brush, roots, or other perishable materials. Backfill material shall be free of clods or stones larger than 2" in diameter.

D. Silt Fence. Silt fencing shall be as shown on plans and approved by Owner.

E. Topsoil Material. Topsoil material shall consist of a sandy loam silt, or loam with sufficient amounts of organic material to start and maintain plant growth. Topsoil material shall be free of excess quantities of clay, hard lumps, roots, grass, stones, and other foreign materials.

F. Base Material. Sound angular crushed stone, crushed gravel, crushed slag, mixture of crushed slag and granulated slag, or other types of suitable locally available materials complying with National Crushed Stone Association (NCSA).

G. Surface Course. The finished surface course shall consist of a hot plant mix, bituminous asphalt, Type E, applied to a compacted depth as shown on construction details.

## **1.02EQUIPMENT**

A. Paving Equipment: **MUST OWN OR RENT A “CARTPATH PAVER OR MINI-PAVER” TO PERFORM THIS WORK.** Standard size pavers will not be permitted. This must be a spreading self-propelled asphalt paving machine capable of maintaining line, grade, and thickness shown. For example the Protec 5800 Cart Path Paver.

B. Compacting Equipment. Self-propelled rollers, minimum 10 ton weight.

C. Hand Tools. Rakes, shovels, tampers, and other miscellaneous equipment required to complete the work.

## **PART 3 EXECUTION**

### **3.01 PREPARATION**

A. Excavation. Topsoil within the path areas, as shown on the plans, shall be stripped to a depth of six (6") inches. All paths shall follow existing contour of land as closely as possible.

B. Preparation of Subgrade. Following the removal of all topsoil, the subgrade shall be brought to correct line and grade. Where fill is required, it shall be placed in lifts not exceeding eight (8") inches in loose thickness and compacted to a minimum of 95% of the maximum density obtained in accordance with AASHO T99 (Method A or C) . Fill material shall be proof rolled to confirm their suitability as pavement subgrades. The proof rolling shall be carried out with a heavy piece of equipment with a gross weight of 25 tons or more. Any areas or pockets of soft or loose material found during this operation shall be removed and replaced with suitable material.

### **3.02 INSTALLATION**

A. Requirements. Comply with Asphalt Institute (AI) MS-3 Asphalt Plant Manual for material storage, control and mixing, and for plant equipment and operations.

B. Transporting Asphalt. Transport asphaltic concrete mixtures from the mixing plant to the project site in trucks with tight, clean compartments.

C. Slopes. All paths shall follow the existing contours of the land as closely as possible. Paths shall be crowned or cross-sloped as required for proper drainage. Crown or cross slope shall be a minimum of 1 % and a maximum of 2%. Longitudinal slope shall not exceed 6%.

D . Base Course Material and Installation. Base course materials shall be free of foreign materials and compacted on prepared subgrade to a thickness after compaction of four (4") inches, unless otherwise indicated on drawings. Base course shall be compacted by rolling with a three-wheeled power roller weighing not less than five

(5) tons. Rolling shall commence at outside edges of path and progress toward the center. Surface base course shall conform to required grade and cross-section, as shown on the plans; and any depressions which may develop due to rolling, handling, or for any other reason shall be refilled and rerolled.

E. Surface Course Installation. Asphalt shall conform to Federal Specifications for the type specified. The surface course shall be rolled until it is fully compacted and does not wave or creek ahead of the roller. Rolling shall commence at the outside edges of the path and progress toward the center. Construction procedures for all paving work shall conform to specifications recommended by the Asphaltic Institute or generally accepted practice of the paving construction trade.

F. Topsoil Replacement. Topsoil shall be placed along edges of paths to a depth of six (6) inches.

### **3.04 PROTECTION**

A. Protection of Site Facilities. Protect existing building, paving, and other facilities on original grade and condition, those areas adjacent to site having been disturbed or damaged during site construction. Cost of repair and restoration of disturbed or damaged areas to be at Contractor's expense.

B. Existing Trees and Vegetation. All existing trees and vegetation scheduled to remain, shall be protected against injury or damage resulting from construction in a manner approved by the Owner. This shall include protection from injury or damage caused by cutting, breaking, or skinning of roots, trunks, or branches. Also included is the smothering or compaction of root zones caused by stockpiling construction materials or excavated materials, vehicular traffic, and the contamination of plant material or root zones with harmful materials or chemicals.

1. Repair trees or vegetation damaged by construction operations in a manner acceptable to the Owner. Repair trees or vegetation promptly to prevent continued deterioration caused by damages.

2. Replace trees damaged beyond repair by construction operations, as determined by Owner, with trees of similar size and species. Cost of tree replacement shall be determined in accordance with the Tree Evaluation Formula as described in "A Guide to Professional Evaluation of Landscape Trees, Specimen Shrubs, and Evergreens," published by the International Society of Arboriculture.

3. Repair and replacement of trees damaged by construction operations due to lack of adequate protection during construction operations, shall be at Contractor's expense.



C. Excavation and Structure Protection. Protect excavations or adjacent structures including utility service lines; by shoring, bracing, sheeting, underpinning, or other methods, as required to prevent cave-ins or loose dirt from entering excavation. Barricade open excavations and post warning lights at work being performed adjacent to public streets or walks.

D. Protection of Work. Protect all work, whether in progress or complete from adjacent work, pedestrians, or vehicular traffic. Provide temporary barricades and warning lights as required from protection of project work and public safety.

E. Existing Conditions, Prior to and during the performance of the work, inspect and note surface and subsurface conditions on site and as presented by drawings and specifications. Notify Owner of conflicts or discrepancies prior to commencing or continuing site construction. Examine proposed construction areas and conditions of construction. Do not start or continue construction work until unsatisfactory conditions are corrected.

F. Existing Utilities and Services. Underground and surface utility lines and services are indicated on the drawings, according to best available information. Contractor shall locate and identify existing underground and overhead services and utilities within contract limit work areas. Provide adequate means of protection for utilities, services, and on-site improvements designated to remain. Perform construction work near utilities and services by hand. Repair utilities, services, and site improvements damaged during construction at Contractors expense.

### **3.05 FINAL CLEAN UP**

A. Clean-up. Contractor shall perform project cleaning during construction and upon completion of construction. The Contractor shall remove from site all excess material debris, and equipment. Repair any damage resulting from construction operations and prior to final acceptance by the Owner, and complete all clean-up operations.

**End of Section 02510**

**BIDDING AND CONTRACT REQUIREMENTS**  
**Document 02742 - Asphalt Repairs/Patching**  
**Specifications**

**Related Requirements**

Section 02765 – Pavement Markings

**Asphalt Removal & Replacement (Patching)**

Saw cut perimeters of areas to be repaired as necessary. Excavate failed asphalt and debris to average depth of 3 to 4 inches below present grades, remove spoils, and dispose of. Re-grade adding, if necessary, CA-6 stone. Compact sub-grade, prime vertical edges of patch perimeters with SS-1 Emulsion as necessary. Furnish, install, and compact to an average of two (2) inches of hot asphaltic binder course (type 1-9) and an average of one (1) to two (2) inches of hot asphaltic surface course (type I-11).

**Crack Filling**

- A. Machine rout cracks over ¼ inch in width to a depth of ¾ inch and a width of ¾ inch to provide a reservoir for sealant.
- B. Clean debris from routed cracks and seal using hot applied rubberized sealant as manufactured by W.R. Meadows #3405 Crackfiller.

**Seal Coating**

- A. Owner is to be notified 24 hours in advance of seal coat application and will collect samples during seal coat operation.
- B. The pavement surface shall be dry and free from frost. Dust, dirt, glaze, oil, grease, loose paint, gravel, debris or other materials and contaminants which would prevent proper bonding of the sealer to pavement shall be removed by the Contractor prior to application.
- C. Seal coating will consist of 2 applications low V.O.C. sealer with one day for drying between coats. Temperature shall be a minimum of 50 degrees at time of application. Seal coating shall be applied from a tank system with continuous power agitation. Seal coat complete area with asphalt NON coal tar sealer mixed with 2% to 3% latex modifier and 3 to 4 pounds of Black Beauty aggregate per gallon of sealer. Sealer, when diluted with water and before sand is added, must contain 35%-40% solids with an ash content of less than 38%.

Note: Seal coating is not a crack filling process.

**General Specifications**

Access to the work area is to be controlled by the contractor with barricades and traffic cones as necessary in all work areas until such time as new work is traffic ready. Closing of portions of parking lots must be coordinated with owner. All work to be completed in a neat and workmanlike manner.

**Accessibility**

All pathways shall comply with 403.3 of the American with Disability Act and Architectural Barriers Act Accessibility Guidelines.

**END SECTION 02742**

**BIDDING AND CONTRACT REQUIREMENTS**  
**Document 02500 – Concrete Site Work**

**1.0 GENERAL**

A. Work under this item includes, but is not limited to:

1. Furnishing, mixing, forming, placing, finishing and curing all concrete required for construction of curbs and gutters, sidewalks, concrete paving, and walls.
2. Furnishing and installing all required reinforcing steel.

**1.01 DESCRIPTION**

B. Published specifications, standards, tests or recommended methods of trade, industry or governmental organizations apply to work of this section, where cited by abbreviation noted.

1. American Society for Testing Materials, Current Edition (ASTM)
2. American Concrete Institute (ACI).
3. State Highway Specifications means the "ILLINOIS DEPARTMENT OF TRANSPORTATION, STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION," current edition including all supplements.
4. All work required under this section shall conform to the State Highway Specification applicable.

C. Related Work in Other Sections

1. Site Grading (Section 02200).
2. Concrete Formwork (Section 03110).
3. Concrete Reinforcement (Section 03200).

**1.02 ENVIRONMENTAL CONDITIONS**

A. Concrete shall not be placed when air temperature is 45 degrees and falling. Placement will be permitted if air temperature is 40 degrees and rising.

**1.03 PROTECTION**

- A. Cure all concrete for not less than seven (7) days after placement.
- B. Protect all concrete surfaces from sun with water-saturated coverings, white polyethylene sheets or approved membrane curing compounds sprayed on the surface.
- C. Concrete pours shall be protected by the Contractor from graffiti or vandalism. Each day's pour shall be guarded until the concrete has obtained sufficient hardness to prohibit malicious damage.

**1.04 CONCRETE TESTING**

A. The Contractor shall provide empty test cylinders for this project.

- B. A total of two (2) test cylinders shall be drawn from the same truck load for every 50 cubic yards of concrete, or two (2) cylinders per each day's pour if less than 50 cubic yards.
- C. Test cylinders shall be clearly marked with a date and load ticket number. The Contractor shall protect cylinders and store safely until picked up by testing laboratory.
- D. Testing expenses shall be paid for by the Owner.

## **2.00 PRODUCTS**

### **A. Portland Cement Concrete**

- 1. Class X, 6 bag mix, concrete in accordance with State Highway Specifications.
- 2. Compressive strength of 4000 pounds per square inch after 28 days when tested in accordance with ASTM C39 for curb and gutters, walks, walls, and concrete foundations.
- 3. Provide a slump between three (3) to four (4) inches max when tested in accordance with ASTM C143.
- 4. Mix all materials for not less than one (1) minute in controlled time mixers.
- 5. Redimix concrete must be discharged from mixer within one (1) hour after all ingredients are in mixer.
- 6. No water shall be added to the concrete after it has been transported to the construction site.

### **B. Expansion Joints**

- 1. Expansion joints shall be ½" bituminous saturated felt or preformed, nonabsorbent closed cell polystyrene or butyl foam as recommended by manufacturer of joint sealant.

### **C. Joint Sealant**

- 1. Joint sealant shall be polyurethane based elastomeric sealing compound material of the cold applied type in a gray color (or to match color of concrete) equal to rubber caulk #230 manufactured by PRC. Dynoseal W-5-7-G. Manufactured by Williams Products Inc., and TC/900 manufactured by Trencor.
- 2. The sealing materials shall be delivered to the job site in unbroken original packages bearing the manufacturer's name and brand designation.

## **2.02 EQUIPMENT**

- A. All equipment used to perform this work must conform to the IDOT Specification Section 800.

## **3.00 EXECUTION**

### 3.01 INSPECTION

- A. Prior to starting work in this section, all subgrades and subsequently prepared base courses must be inspected and approved by the Architect.

### 3.02 PREPARATION

- A. Install a minimum of two (4) inches compacted thickness of aggregate bedding prior to installation of all concrete. Base should be properly wetted prior to concrete placement.

### 3.03 INSTALLATION

- A. Build forms to line and grade with mortar tight joints using good lumber or metal forms properly braced and staked. Oil forms before concrete is poured. Forms may be removed 24 hours after pouring.
- B. Place reinforcing steel as indicated in the details on plan.
- C. Expansion joints shall be placed against existing concrete and stationary structures. Install ½ inch expansion joints in walks 30 feet on center every 30 feet using ¾ inch expansion material with standard expansion caps and smooth dowels through each joint (See Curb and Gutter Detail).
- D. Notify Landscape Architect 48 hours before the intended pour.
- E. Place concrete immediately after mixing and thoroughly puddle or vibrate to consolidate and bring mortar to surface.
- F. Finish curb and gutters smooth by floating, troweling, and edging before brushing surface to secure final surface. Use standard ten (10) foot straight-edge test and correct irregularities over ¼ of an inch.
- G. Finish walks and flatwork by floating, steel troweling, scoring, edging, and broom finishing or exposing aggregate by washing where applicable. All walks shall be free from surface defects, leaf fossils imprints of any type. All defects should be replaced at no additional expense to the owner.
- H. Construct straight, well-defined score lines (control joints) five (5) feet on center in all work at right angles to walk, extending to 1½ inches depth of the concrete and 1/8 to ¼ of an inch wide. See Concrete Details for special scoring requirements.
  - 1. Score Lines/Control Joints
    - a. Weakened plane control joints for curb and sidewalk shall be constructed at right angles to curb line, with spacing in 5 foot multiples, not to exceed 5 foot for sidewalk and 10 foot for curb.
    - b. Control joints may be hand formed with joint depth to be a minimum of ¼" the total depth of the section. No sawed joints will be permitted.

2. Expansion Joints – provide in the following locations

- a. Wherever walks abut vertical surfaces
- b. Curb. Expansion joints shall be constructed at right angles to the curb line with spacing in multiples of 10 feet not to exceed 30 feet. Expansion joints shall also be placed at interface at straight curb and short radius curved sections, interface of new curb with old curb, and both sides of driveway cuts.

3. Walks.

- a. Expansion joints shall be constructed at right angles to the curb line with spacing not to exceed 30 feet.
  - b. Expansion joints shall also be placed at interface with straight walk and short radius curved sections, interface of new walk with old walk and both sides of driveway approaches.
  - c. Locations as indicated or necessary to prevent shrinkage from cracking concrete.
- I. Remove forms carefully to avoid damaging corners and edges of exposed concrete within 24 hours after the concrete has been placed.
- J. Broom finish surfaces carefully straight continuous strokes at right angles to direction of traffic, while the concrete is still green. The edges shall be rounded with approved finishing tools having the radii shown on the drawings.
- K. Ramp Texture: Wheel chair ramps, where shown, shall be finished with heavier brooming transverse to slope of ramp. Texture must conform to Americans With Disabilities Act guidelines.

**3.04 CLEANING, PATCHING AND DEFECTIVE WORK**

- A. Where concrete is under strength, out of line, level, or plumb, or shows objectionable cracks, honeycombing, rock pockets, voids, spalling, exposed reinforcing or is otherwise defective, and in the Landscape Architects judgment, these defects impair proper strength or appearance of the work, the Landscape Architect will require its removal and replacement at the Contractor's expense.
- B. Immediately after stripping and before concrete is thoroughly dry, patch minor defects, form-tie holes, honeycombed areas, etc., with patching mortar. Patch shall match finish of adjacent surface unless noted. No patching is allowed on concrete surfaces to be sandblast finished.
- C. Stained or discolored concrete shall be cleaned as directed and approved by the Landscape Architect.
- D. Stains or other defects which cannot be removed are subject to correction by removal and replacement at no cost to owner.

**END OF SECTION**

# DRAFT AIA® Document A101™ – 2017

## *Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum*

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)

«Northbrook Park District  
545 Academy Drive  
Northbrook, IL 60062»« »

« »  
« »  
« »

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

« »« »  
« »  
« »  
« »

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

« 2999 Project Name  
The Project includes\_\_\_\_, and all other incidental and collateral work necessary to  
properly complete the Project as indicated in the Contract Documents.»

« »  
« »

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

« »« »  
«If Applicable: For purposes of this Agreement, “Architect” shall mean Owner. An  
Architect will not be used for this Project.»

« »  
« »

The Owner and Contractor 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.

The parties should complete A101™-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others. Prior to commencing the Work, the Contractor shall have obtained and provided to the Owner acceptable evidence of all licenses, permits, bonds and insurance indicated as being the Contractor's responsibility under the Contract Documents. Delay in the commencement of the Work attributable to the failure of the Contractor to have obtained and provided such evidence to the Owner shall not result in an extension of the date scheduled for Substantial Completion as provided in Section 3.3 below, or in any milestone date previously agreed to by the Parties in any Project Schedule.

### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

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

*(Check one of the following boxes.)*

☐ The date of this Agreement.

☐ A date set forth in a notice to proceed issued by the Owner.

☐ Established as follows:

*(Insert a date or a means to determine the date of commencement of the Work.)*

☐

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

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

#### § 3.3 Substantial Completion



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

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

[ ☐ ] Not later than  ( ☐ ) calendar days from the date of commencement of the Work.

[ ☐ ] By the following date:

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

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

[ ☐ ] Not later than  ( ☐ ) calendar days from the date of commencement of the Work.

[ ☐ ] By the following date:

§ 3.3.2 Reserved.

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

#### ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be  (\$  ), subject to additions and deductions as provided in the Contract Documents.

#### § 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
<input type="text"/>	<input type="text"/>

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
<input type="text"/>	<input type="text"/>	<input type="text"/>

§ 4.3 Allowances, if any, included in the Contract Sum:

(Identify each allowance.)

Item	Price
<input type="text"/>	<input type="text"/>

§ 4.4 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
<input type="text"/>	<input type="text"/>	<input type="text"/>

§ 4.5 Liquidated damages, if any:

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

« The parties agree that time is of the essence of this Agreement. If the Contractor fails to achieve Substantial Completion of the Work by the Substantial Completion date(s) established in the Contract Documents and/or as established in the approved construction schedules, as may be adjusted by extensions of time contained in fully-executed Change Orders, if any (the "Scheduled Date(s) of Substantial Completion"), the Contractor shall be liable to

and shall pay the Owner the amount of \$\_\_\_\_\_.00 per calendar day for each and every such day between the Scheduled Date(s) of Substantial Completion and the actual date(s) of Substantial Completion, and the Owner may set off and deduct such amounts from payments due, or which may later become due, to the Contractor.

The parties stipulate and agree that this provision is fair and reasonable, and the per day rate established in this Section is fair and reasonable, considering the nature of the harm that may be incurred by the Owner as a result of such delay, and the difficulty or impossibility of ascertaining, calculating, and/or proving the actual damages resulting from such delay. The parties stipulate and agree that this Section 4.5 is a valid and enforceable liquidated delay damages clause, and is not a penalty. The liquidated damages clause contained in this Section 4.5 shall be Owner's sole and exclusive remedy against Contractor for delay.

»

#### § 4.6 Other:

*(Insert provisions, if any, that might result in a change to the Contract Sum.)*

«Overtime, if and when specifically authorized in writing in advance by the Owner shall be paid by the Owner on the basis of premium payment if any, plus the cost of insurance and taxes based on the premium payment period. No overhead or profit may be charged for overtime. The Contractor shall not be entitled to any payment for overtime necessitated by the failure of the Contractor to perform the Work in accordance with the Contract Documents including without limitation to the Contractor's failure to prosecute the Work diligently and on an uninterrupted basis and with a sufficient workforce so as to achieve completion of the Work within the time and in the manner contemplated by the Contract Documents, or otherwise due to the fault of the Contractor. In such instances if the Owner requires the Contractor to perform Work on an overtime basis, all costs for and associated with such overtime shall be borne by the Contractor.

»

### ARTICLE 5 PAYMENTS

#### § 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment properly completed and accompanied by all supporting documentation and other submittals required by the Contract Documents submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, and agreed to by Owner and not subsequently nullified by the Architect in accordance with the Contract Documents, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

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

« »

§ 5.1.3 Provided that an Application for Payment, which is in proper form and accompanied by required supporting documents and submittals, is received by the Architect not later than the « 1st » day of a month, certified for payment by the Owner and not subsequently nullified by the Owner in accordance with the Contract Documents, the Owner shall make payment of the amount certified to the Contractor not later than the «1st » day of the «following » 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 «sixty » ( « 60 » ) days after the Architect receives the Application for Payment in proper form and accompanied by required supporting documents and submittals and certifies payment to the Owner. Contractor is solely responsible for any delays in payment due in whole or in part to Contractor's failure to submit its payment application timely, in proper form and accompanied by all supporting documents and submittals required under the Contract.

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

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 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.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, as modified by Owner, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

- .1 That portion of the Contract Sum properly allocable to completed Work.
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 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, as modified by Owner;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017, as modified by Owner;
- .5 Retainage withheld pursuant to Section 5.1.7; and
- .6 Any other reduction authorized by the Contract Documents.

#### § 5.1.7 Retainage

§ 5.1.7.1 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.)*

«Ten Percent (10%) »

§ 5.1.7.1.1 The following items are not subject to retainage:

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

« NA »

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

*(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)*

« In accordance with Article 9 of the AIA Document A201™–2017, General Conditions of the Contract for Construction, as modified by Owner.»

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

*(Insert any other conditions for release of retainage upon Substantial Completion.)*

« NA »

§ 5.1.8 Reserved.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## § 5.2 Final Payment

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

- .1 the Contractor has fully performed the Contract in accordance with the Contract Documents; provided that Owner shall have no obligation to make final payment if the Contractor is required to correct Work as provided in Article 12 of AIA Document A201–2017, as modified by Owner, or as otherwise specified by the Contract Documents, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect and Owner has approved payment.

§ 5.2.2 The Owner's final payment to the Contractor for Work properly performed shall be made in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.*, after the Owner's receipt from the Architect of the Architect's final Certificate for Payment

<< >>

## § 5.3 Interest

Payments due and unpaid under the Contract shall bear interest only as provided in the Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.*

## § 5.4 Waiver Procedure/Format

The first Application for Payment shall be accompanied by the Contractor's Partial Waiver of Lien to date for the full amount of the payment. Each subsequent monthly payment application shall be accompanied by the Contractor's Partial Waiver of Lien and the Partial Waivers by of subcontractors and suppliers who were included in the immediately preceding payment application to the extent of that payment. The Application for Final Payment shall be accompanied by Final Waivers of lien from the Contractor, subcontractors, and suppliers who have not previously furnished such Final Waivers. Final Waivers shall be for the full amount of the Contract and the Final Waiver of a Subcontractor shall be for the full amount of its Subcontract. All applications for payment shall be accompanied by affidavits from the Contractor, in triplicate, containing such information and in such form to comply with the Illinois Mechanics Lien Act (770 ILCS 60/001 *et seq.*) and showing in detail the sources of all labor and materials used and contracted to be used on the Project, including names and addresses of subcontractors and materials suppliers; amounts paid and remaining to be paid to each; together with all other documents as shall be necessary, in the sole judgment of the Owner, to waive all claims of liens to date and comply with all applicable state and local laws.

- (i) All waivers (partial and final) shall include language as applicable indicating either that:
  1. All materials were taken from fully paid stock and delivered to job site in our own vehicles and all labor has been fully paid in accordance with prevailing wage laws; or
  2. Materials were provided by the following suppliers from whom waivers of lien are attached and all labor has been fully paid in accordance with prevailing wage laws.

## ARTICLE 6 DISPUTE RESOLUTION

### § 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker to the extent provided in Article 15 of AIA Document A201–2017, as amended by Owner, unless the parties appoint below another individual, not a party to this 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.)*

<< >>

<< >>

« »  
« »

## § 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, as modified by Owner, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 15.4 of AIA Document A201–2017

☐ Litigation in a court of competent jurisdiction

☒ Other (Specify)

« As provided in the AIA Document A201–2017, as amended by Owner. »

## ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017, as amended by Owner.

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, as amended by Owner, then the Owner shall pay the Contractor a termination fee as follows:

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

« Owner shall pay no termination fee to Contractor. »

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017, as amended by Owner.

## ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended by Owner and included in the Project Manual.

§ 8.2 The Owner’s representative:

(Name, address, email address, and other information)

« »  
« »  
« Northbrook Park District  
545 Academy Drive  
Northbrook, IL 60062  
T: 847-291-2960  
Email: @nbparks.org »  
« »  
« »  
« »

§ 8.3 The Contractor’s representative:

(Name, address, email address, and other information)

« »  
« »  
« »  
« T:  
Email: »

»  
<< »  
<< »

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

#### § 8.5 Insurance and Bonds

§ 8.5.1 The Contractor shall purchase and maintain insurance and shall provide bonds with limits and amounts as set forth in AIA Document A201–2017, as amended by Owner.

§ 8.6 Reserved.

<< »

§ 8.7 Other provisions:

« § 8.7.1 Not less than the prevailing rate of wages as determined by the Illinois Department of Labor shall be paid to all laborers, workers and mechanics performing the Work. Contractor's bonds shall include a provision as will guarantee the faithful performance of this prevailing wage clause as herein provided and as provided in the General Conditions. Contractor shall comply with all other requirements of the Prevailing Wage Act.

§ 8.7.2 The Contractor shall be responsible for the supply and maintenance of any and all temporary equipment, utilities and facilities necessary to properly and safely complete and protect the Work, including without limitation those required by winter conditions. The Contractor shall provide and erect barricades and other safeguards adequate to warn of danger at the site and to protect persons and property from injury resulting from the Work.

§ 8.7.3 The Contractor shall limit materials and equipment storage to the immediate area of Work and such other areas as the Owner may designate. The Contractor shall promptly remove and properly dispose all construction material, trash, garbage and other debris off site.

§ 8.7.4 Except as otherwise specifically provided in the Contract Documents, if and to the extent of any inconsistency, ambiguity, conflict, discrepancy or error in the Contract Document, and otherwise in interpreting the Contract Documents, the Parties shall give precedence to the Contract Documents in the following order of priority:

- (i) Modifications.
- (ii) This Agreement
- (iii) Supplementary and Special Conditions.
- (iv) General Conditions
- (v) Construction Drawings

§ 8.7.5 The rights and remedies of the Owner stated in the Contract Documents shall be in addition to and not in limitation of any other rights of the Owner granted at law or in equity.

»  
»

## ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor, as amended by Owner;
- .2 AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended by Owner;
- .3 Drawings. The Drawings are those included in the Project Manual dated \_\_\_\_\_.

Number	Title	Date

- .4 Specifications. The Specifications are those included in the Project Manual dated \_\_\_\_.

Section	Title	Date	Pages

- .5 Addenda, if any:

Number	Date	Pages

- .6 Other Exhibits:  
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ☐ ] Supplementary and other Conditions of the Contract are those included in the Project Manual dated \_\_\_\_.

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 Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

« 1. All other documents contained in the Project Manual dated \_\_\_\_.

2. Certificate of Insurance and endorsements attached to and incorporated in this Agreement by this reference.

3. Performance Bond, Labor and Material Payment Bond, attached to and incorporated in this Agreement by this reference.

4. Prevailing Wage Determination and supersedes notice attached to and incorporated in this Agreement by this reference.

5. Contractor's Proposal, as modified by the Contract Documents, attached to and incorporated in this Agreement by this reference.

6. Contractor's Compliance and Certifications Attachment and Substance Abuse Prevention Program Certification, attached to and incorporated in this Agreement by this reference.

»

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



NORTHBROOK PARK DISTRICT

OWNER (Signature)

«Chris Leiner,»« Executive Director »

(Printed name and title)

CONTRACTOR (Signature)

« »« »

(Printed name and title)

789562





# DRAFT AIA® Document A201™ – 2017

## General Conditions of the Contract for Construction

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

STANDARD GENERAL CONDITIONS  
(Rev. September 2018)

THE OWNER:  
(Name and address)

«Northbrook Park District  
545 Academy Drive  
Northbrook, IL 60062

THE ARCHITECT:  
(Name and address)

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14	TERMINATION OR SUSPENSION OF THE CONTRACT
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**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, other documents included in the Project Manual, 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, or (2) a Change Order.

#### § 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, provided, however, Owner shall be third party beneficiary of any Subcontract agreement as set forth in Article 5 herein, (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 duties 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.

#### § 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

#### § 1.1.5 The Drawings

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

#### § 1.1.6 The Specifications

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

#### § 1.1.7 Instruments of Service

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

#### § 1.1.8 Initial Decision Maker

The Initial Decision Maker, if any, is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2.

#### § 1.1.9 Final Completion

Final Completion means the date the Contract has been fully performed, all the Work has been completed and a final Certificate for Payment approved by the Owner has been issued by Architect.

#### § 1.1.10 Punch List

"Punch List" shall mean and shall be limited to uncompleted items of the Work (a) that do not interfere with the use and occupancy of any area of the Project Site for its intended purpose and (b) that, as a group, are capable of being completed by the Contractor within thirty (30) days of issuance of any Punch List.

## § 1.2 Correlation and Intent of the Contract Documents

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

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

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

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.2.4 If any two or more provisions of the Contract Documents conflict, and such conflict relates to the quantity or quality of the Work, the Contractor agrees to provide the greater quantity and/or better quality of such Work.

## § 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 Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner's reserved rights.

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

## § 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 may agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. If the parties agree to protocols governing the transmission and use of

Instruments of Service and other documents in digital form, the parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish these 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, to the extent allowed by law and by the Owner's Board Policies, have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 Where the Owner has designated information 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.

### § 2.2 Intentionally Stricken

### § 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. The Contractor shall provide information or other assistance as the Architect or Owner may request in connection with these obligations.

§ 2.3.2 If Owner determines an Architect is required for the Project, 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 Intentionally Stricken. § 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. Notwithstanding the foregoing, the furnishing of surveys by the Owner is not a guarantee of the accuracy of the information contained therein, and shall not relieve the Contractor from its duties under the Contract Documents in general. The submission of a bid for the work implies that the Contractor had examined the site, taking into consideration all such conditions that may affect the work, regardless of the information contained in the surveys.

§ 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 or refuses to provide a sufficient amount of properly supervised and coordinated labor, materials, or equipment so as to be able to complete the Work within the Contract Time, or fails to remove and discharge (within ten days) any lien filed upon Owner's funds by anyone claiming by, through, or under Contractor, or disregards the instructions of Architect or Owner when based on the requirements of the Contract Documents, or fails to carry out Work in accordance with the Contract Documents, or in the event an emergency arises that requires the Work to be stopped, 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. The Owner's rights and remedies under this section are in addition to, and not a limitation of, any other rights and remedies of the Owner under the Contract Documents or otherwise.

#### § 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 five-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and reasonable attorneys' fees, and compensation for the Architect's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner within thirty (30) days after a request by the Owner.

§ 2.6 **Owner's Right to Audit.** The Contractor shall keep full and accurate records, in accordance with sound accounting principles, of all labor and material costs incurred, items billed, and all other expenditures, costs, liabilities and obligations incurred in connection with the performance of the Work, and all papers, files, accounts, reports, cost proposals with backup data and all other material relating to work under this Contract, which records shall be open to audit by the Owner or its authorized representatives during performance of the Work and for the length of time established by law or five years, whichever is longer, from the date of final payment to Contractor or termination of this Contract. In addition, the Contractor shall make it a condition of all Subcontracts relating to the Work that 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 for the length of time established by law or five years, whichever is longer, from the date of final payment to Contractor or termination of this Contract.

### 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. The Contractor is an independent contractor, and shall not be deemed an agent of the Owner for any reason.

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

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in strict 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 The Contractor represents that it has visited the Project 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 restrictions on access), transportation, delivery, 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 effect the Work or the cost thereof under this Agreement. Any failure by the Contractor to acquaint itself with all the available information concerning these conditions will not relieve the Contractor from any obligation under 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 evaluate 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 latent errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any apparent errors, inconsistencies or omissions as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations, including any increases in construction costs. 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 nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.2.5 In all cases where Work interconnects 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 thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures to the Owner and Architect. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. The Contractor shall not proceed performing the Work using its alternative means, methods, techniques, sequences, or procedures without written approval from the Architect.

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



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

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

§ 3.3.5 No inspection performed or failed to be performed by the Owner or Architect shall be a waiver of any of the Contractor's obligations hereunder.

§ 3.3.6 The Contractor has the responsibility to ensure that all material suppliers and Subcontractors, their agents, and employees adhere to the Contract Documents, and that they order materials on time, taking into account the current market and delivery conditions and that they provide materials on time. The Contractor shall coordinate its Work with that of all others on the Project including deliveries, storage, installations, and construction utilities. The Contractor shall be responsible for the space requirements, locations, and routing of its equipment. In areas and locations where the proper and most effective space requirements, locations, and routing cannot be made as indicated, the Contractor shall meet with all others involved, before installation, to plan the most effective and efficient method of overall installation.

#### § 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 equal to or superior to the specified materials only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive. Except as provided in 3.4.2, the materials specified have been determined to have characteristics appropriate for this Project. No work will be accepted which utilizes an alternate not approved during the bidding process.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.4.4 The Contractor shall not at any time permit on the Project site any alcohol or controlled substances whether inside or outside of buildings or structures. Possession or use of any of the foregoing at or adjacent to the site shall obligate the Contractor to remove such offending personnel from the site and replace them at no additional cost to the Owner.

§ 3.4.5 The Contractor and any Subcontractors shall conform to labor laws of the State and various acts amendatory and supplementary thereto and to other laws, ordinances and legal requirements applicable thereto. Contractor shall enforce among all personnel directly or indirectly employed by it, and among all Subcontractors and their employees, all rules which the Owner may establish for conduct of such personnel on the site.

§ 3.4.6 The Contractor shall pay prevailing wages in accordance with and shall fully comply with all requirements of the Prevailing Wage Act, 820 ILCS 130/0.01, *et seq.*

§ 3.4.7 Before ordering any material or doing any Work, the Contractor shall verify all measurements at the Project Site and he shall be responsible for the correctness of same. No extra charge or compensation will be allowed to the Contractor on account of any difference between actual dimensions and the measurements shown by the Project Drawings.

§ 3.4.8 The Contractor shall carefully inspect all materials delivered on and to the Project Site and reject defective materials without waiting for the Architect or other representative of Owner to observe the materials.

§ 3.4.9 Contractor shall maintain harmonious labor relations on the job site. If a labor problem arises or any person employed by the Contractor on the Work shall appear to the Owner to be incompetent or conduct himself in a

disorderly or improper manner, such person or persons shall be removed from the Work immediately on the request of the Owner. Said removal shall not create any additional cost to Owner and shall not extend the time for completion of the Work.

### § 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work shall strictly conform to the requirements of the Contract Documents and shall be free from defects. This warranty shall not be restricted by the limitations of any manufacturer's warranty. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

All warranties shall include labor and materials and shall be signed by the manufacturer or Subcontractor as the case may be and countersigned by the Contractor. All warranties shall be addressed to the Owner and delivered to the Architect upon Substantial Completion of the Work and before the submission of request for final payment in accordance with Section 9.8.6. Except as otherwise provided elsewhere in the Contract Documents, or in any Certificate of Substantial Completion approved by Owner and Contractor and/or Subcontractor, as applicable, all warranties shall become effective on the date of Substantial Completion of the entire Work, and shall run for a twelve (12) month period, unless a longer period is provided for in the Contract Documents or by law. Where warranties overlap, the more stringent requirement shall govern.

§ 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.

§ 3.5.3 If materials or equipment are replaced during the original warranty period, a new warranty period thereon shall then begin from the date that such corrective action is completed and approved.

§ 3.5.4 For concrete work, warranty protection for a repaired item shall be for twenty-four months after final acceptance of concrete work or the length of the original warranty period, whichever is longer. This will cover structural failures, as well as surface erosion due to spalling caused by frost popping soft aggregates within the concrete and surface erosion due to faulty workmanship. All concrete work not meeting high industry standards will be removed and replaced at no charge to the Owner.

§ 3.5.5 Defective materials, equipment or workmanship occurring within the warranty period may be repaired where such produces results conforming to the Contract Documents relating to appearance, performance and reliability. Where the nature of the defective materials, equipment or workmanship is such that acceptable results cannot be obtained by repair, such defective items shall be removed and replaced with new materials, equipment or workmanship complying with the Contract Documents.

§ 3.5.6 Correction of defective or non-conforming Work shall include, in addition to that described in Article 12, any damage to the Project or other property that may result from such defective or nonconforming Work or from such corrective action, including without limitation any damage to any contents, to the work of other contractors, or to adjacent property.

§ 3.5.7 The Contractor shall furnish maintenance and twenty-four (24) hour callback service for the equipment provided by Contractor, Subcontractor or supplier for a period of at least six (6) months after Final Completion and acceptance of the Work, or for such longer period as shall otherwise be provided in any of the Contract Documents. This service shall include regular examinations of the installation by competent and trained employees of the Contractor, or manufacturer, and shall include all necessary adjustments, greasing, oiling, cleaning, supplies and parts to keep the equipment in proper operation except such parts made necessary by misuse, accidents or negligence not caused by the Contractor or any of its Subcontractors.

§ 3.5.8 The warranty provided in this Paragraph 3.5 shall be in addition to and not in limitation of, any other warranty or remedy required under the Contract Documents or under applicable law.

### § 3.6 Taxes

The Owner is tax-exempt. Notwithstanding, the Contractor shall pay any applicable sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received, whether or not yet effective or merely scheduled to go into effect.

### § 3.7 Permits, Fees, Notices and, Compliance with Laws

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

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction including, but not limited to, the cost to correct the Work and any fines, penalties, judgments or damages imposed on, or suffered, sustained or incurred by Owner due to Contractor's failure to comply with the provisions of 3.7.2. The Contractor shall also be liable to the Owner for any delay in the performance of the Work or increase in the cost of the Work resulting from the Contractor's failure to fully comply with the provisions of Section 3.7.2.

#### § 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 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 immediately 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.

§ 3.7.6 Contractor shall comply with all public and private utility requirements relating to the Work or the performance thereof. If the Contractor performs Work contrary to applicable utility requirements, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### § 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;



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

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

### § 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work on site. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. The superintendent shall be subject to approval by the Owner and shall not be replaced without the prior written consent of the Owner. The Owner shall have the right to require that the Contractor replace the superintendent, at no additional cost to the Owner, at any time during the duration of the Work if his/her performance is not satisfactory to the Owner.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Owner may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Owner to provide notice within the 14-day period shall constitute notice that Owner has no initial objection to the proposed superintendent, but shall not affect Owner's right to make a subsequent rejection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent.

### § 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.

§ 3.10.1.1 The Contractor's construction schedules shall be in a bar chart format, and shall depict, at a minimum, activity identification and durations, critical path, float, early start, early finish, late start, and late finish.

§ 3.10.1.2 The float in the construction schedules will not be deemed exclusively available to the Contractor or Owner, but rather shall be available to either party as needed.

§ 3.10.1.3 No less than once per month, the Contractor shall submit an updated construction schedule. The updated construction schedule shall depict actual start and completion dates for Work commenced and, if appropriate, Work completed. Additionally, the updated construction schedules shall depict updated estimates of anticipated commencement and completion dates for all upcoming Work.

§ 3.10.1.4 Submission of the initial construction schedule and monthly schedule updates shall be absolute prerequisites of certification of the Contractor's application for payment.

§ 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 the Work in general accordance with the most recent schedules submitted to the Owner and Architect. If the Contractor fails to adhere to the approved construction schedule(s), Contractor shall immediately, at its own expense, take necessary measures to remedy 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 (collectively the "Record Documents"). These Record Documents shall be in electronic form or paper copy, available for inspection by the Architect or Owner upon reasonable notice, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed. Adequate maintenance of the Record Documents shall be a prerequisite to certification of the Contractor's applications 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. The Contractor shall submit Product Data for all equipment and materials incorporated into the finished Work. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

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

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

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific

deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

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

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

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by 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 Architect has specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

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

### § 3.13 Use of Site

The Contractor shall confine operations at the site to the site access plan, if any, and to the 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.

§ 3.13.1 General Use. The Contractor shall enforce the Owner's instructions regarding the conduct and use of the site by his employees.

### § 3.13.2 Parking & Traffic.

.1 Parking of construction vehicles on the site by the Contractor shall not inhibit construction nor prevent access for emergency or other official vehicles. Parking of private vehicles on the site by the Contractor is prohibited unless said vehicle is necessary in the execution of the Contract. No construction vehicles shall be parked near or under any existing vegetation on the site.

.2 Construction traffic and staging shall be permitted only within construction limits as indicated on plan. The Contractor is responsible for repair of any areas disturbed outside of this area, including grading and sodding. No staging will be permitted on the existing asphalt.

§ 3.13.3 Fencing. The Contractor will be responsible for erecting and maintaining all construction fencing required by applicable law, regulation, rule, ordinance or code at all times of construction. Failure to erect or maintain this fencing will result in the correction of the problem by the Owner at the expense of the Contractor. The Contractor's expense will be back charged to the Contract, and may include, but are not limited to, the cost of any materials and staff time. Required fencing must be installed and fully erected before construction operations beginning and tied-up at the end of each working day. All construction fencing must conform to the Specifications and as required by applicable law.

§ 3.13.4 Water Removal. If, during construction, standing water caused by heavy rains or poor drainage becomes a hazard in the proper execution of the Contract, it shall be the responsibility of the Contractor to provide and make payment for removal of said water to existing drainage swales, storm sewers or other natural or man-made drainage ways.

#### § 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 from any adjacent property, all waste, scraps, tools, equipment, storage facilities, machinery, trailers, and vehicles no longer required for prosecution of the Work, such that the Project site remains clean, orderly, and safe.

§ 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 Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, or the Contractor has reason to believe that the required design, process, or product is an infringement, 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 of contribution against and shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from or in connection with the performance of the Work, but only to the extent caused by the Contractor's or any Subcontractor's breach of the Contract Documents, or by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 "Claims, damages, losses and expenses" as these words are used herein shall be construed to include, but not be limited to (1) injury or 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 or any other indemnity contained in the Contract Documents; and (3) all costs, expenses, lost time, opportunity costs and other similar indirect or incident damages incurred by the party being indemnified or its employees, agents or consultants.

§ 3.18.4 In the event that the Contractor or its Subcontractors are requested to, but refuse to, honor the indemnity obligations hereunder or to provide a defense, then in addition to all other obligations hereunder, the Contractor or its Subcontractors shall reimburse the Owner and Architect the cost of any legal action concerning Contractor or Subcontractor's duty to defend and indemnify under this Agreement, including attorneys' fees, time expended, costs and expenses.

§ 3.18.5 The Contractor hereby knowingly and intentionally waives the right to assert, under the case of *Kotecki v. Cyclops Welding Corp.*, 146 Ill.2d 155 (1991) that Contractor's liability may be limited to the amount of its statutory liability under the Workers' Compensation Act, and agrees that Contractor's liability to indemnify and defend the Owner and Architect is not limited by the so called "Kotecki Cap". The Contractor shall include this provision in each of its Subcontract agreements and shall require its Subcontractors to be so bound.

§ 3.18.6 The Contractor shall include in each and every Subcontract with any and all Subcontractors and/or material suppliers performing Work and require each and every Subcontractor and/or material supplier performing Work to agree to be bound by all of the provisions 3.18.1 through 3.18.10 under the Contract Documents.

§ 3.18.7 The Contractor's indemnity obligations hereunder shall specifically include all claims and judgments which may be made against the indemnitees under federal or state law or the law of the other governmental bodies having jurisdiction, and further, against claims and judgments arising from violation of public ordinances and requirements of governing authorities due to Contractor's or Contractor's employees method of execution of the Work.

§ 3.18.8 The indemnification provisions of this Section 3.18 are not intended to circumvent the Construction Contract Indemnification for Negligence Act, 740 ILCS 35/0.01 *et seq.* and shall not be construed as such, but in such a way to effect its enforcement.

§ 3.18.9 The Contractor shall indemnify and hold harmless the Owner in the event of labor or trade union conflicts or disputes between the Contractor and Subcontractors and their respective employees. The Contractor shall endeavor to adjust and resolve such conflicts and disputes which affect the timely completion of the Work. Such conflicts or disputes shall not be a basis or excuse for the violation of the Contract Documents by the Contractor or its Subcontractors, and shall not provide the Contractor with relief from complying with dates for Substantial Completion or Final Completion. Labor or trade union disputes that affect production or delivery of materials or equipment, or the installation, shall be at no cost to the Owner. The Contractor shall notify the Architect and the Owner in writing as soon as possible as to any labor or trade disputes which may affect the Work and its timely completion. In such event, the Contractor shall provide a written proposal to the Architect and the Owner which includes any comparable substitution(s) necessary to complete the Work.

§ 3.18.10 None of the foregoing provisions shall deprive the Owner or the Architect of any action, right or remedy otherwise available to them or either of them at law.

§ 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 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 or councils which regulate or distinguish what activities shall not be included in the Work of any particular trade. In case the progress of the Work is affected by any undue delay in furnishing or installing any items or materials or equipment required under the Contract Documents because of the conflict involving any such agreement or regulation, the Architect may require that other material or equipment of equal kind and quality be provided at no additional cost to the Owner.



## ARTICLE 4 ARCHITECT

### § 4.1 General

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

### § 4.2 Administration of the Contract

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

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

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

### § 4.2.4 Communications

The Owner and Contractor shall endeavor to 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 observation and evaluation of the progress and quality of Work and Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect and the Owner each have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the

Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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

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

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 Intentionally Stricken

§ 4.2.12 Interpretations 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.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information. All requests for information shall be submitted to the Architect in a format acceptable to the Architect.

## ARTICLE 5 SUBCONTRACTORS

### § 5.1 Definitions

§ 5.1.1 If this Project is utilizing a construction manager at-risk, then when the lowest, responsive and responsible multiple prime trade bidder(s) are identified and awarded contracts by the Owner, each such award shall constitute the automatic assignment of that trade contract by the Owner to the Contractor, and each such successful bidder shall then be known as a "Subcontractor." If this Project is utilizing a single general contractor or multiple prime trade contractors, and the Project is not utilizing a construction manager-at risk, then there shall be no such assignment. In any case, a Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

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

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

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

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

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

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

§ 5.2.5 In the event of a conflict between the Owner and Architect regarding the selection of Subcontractors, the Owner's decision shall govern.

### § 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 Subcontractor acknowledges: (1) that the Owner is a direct intended third party beneficiary of each Subcontract between the Contractor and Subcontractor; (2) that notwithstanding any contract provision to the contrary, Subcontractor shall be bound to perform the Work in accordance with these AIA A201 general conditions, as amended; and (3) that the Subcontractor is not a third party beneficiary of any construction management contract between Contractor and Owner.

Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

### § 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 All subcontract agreements shall conform to the requirements of the Contract Documents and the Contractor hereby assigns to Owner (and Owner's permitted assigns) all its interest in any subcontract agreements and purchase orders now existing or hereinafter entered into by the Contractor for performance of any part of the Work, which assignment will be effective in the event of the Contractor's failure to perform the Work in accordance with the Contract Documents and upon acceptance by Owner in writing and only as to those subcontract agreements and purchase orders that Owner designates in said writing. It is agreed and understood that the Owner may accept said assignment at any time during the course of construction prior to Final Completion. Upon such acceptance by Owner, (1) the Contractor shall promptly furnish to the Owner true and correct copies of the designated subcontract agreements and purchase orders, and (2) the Owner shall only be required to compensate the designated Subcontractor(s) or supplier(s) for compensation accruing to such party(ies) for Work done or materials delivered from and after the date on which the Owner accepts the subcontract agreement(s) or purchase order(s). All sums due and owing by the Contractor to the designated Subcontractor(s) or supplier(s) for work performed or material supplied prior to Owner's acceptance of the subcontract agreement(s) or purchase order(s) shall constitute a debt between such parties and the Contractor. It is further agreed that no subcontract agreement or purchase order shall contain any restriction that would prohibit assignment under the terms and conditions stated hereinabove. It is



further agreed and understood that such assignment is part of the consideration to Owner for entering into the Contract with the Contractor and may not be withdrawn prior to Final Completion.

#### § 5.4.2 Intentionally Stricken. .

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity.

### 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 or other construction or operations on the site with the Owner's own forces, and with Separate Contractors. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

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

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

#### § 6.2 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.

§ 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 Separate Contractors 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. For the purposes of facilitating this section only, the Contractor and Separate Contractors shall be deemed intended third party beneficiaries to each other's respective contracts with the Owner.

§ 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.

§ 6.2.6 Should the Contractor cause damage to the work or property of any separate contractor and/or in the event of any other claim, dispute, or matter in question between the Contractor and any separate contractor, the Contractor shall promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. In any

event, the Contractor shall indemnify, defend, and hold harmless the Owner, its officers, park commissioners, employees and agents, to the full extent as agreed to under Section 3.18 of these General Conditions.

### § 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 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.

§ 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.

§ 7.1.4 No Change Order shall be approved or paid unless preceded by a written direction for the Change Order is provided by the Owner. This requirement cannot be waived. There shall be no implicit or constructive change orders.

### § 7.2 Change Orders

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

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

§ 7.2.2 No payment for changes in the Work shall be made until such change has been memorialized in an executed Change Order and the Change has been executed.

§ 7.2.3 Adjustments to the Contract Sum for changes in the Work (other than for changes in the Work involving items for which unit prices were provided) shall be made in accordance with this Section 7.2.3, provided that in the case of an increase in the Contract Sum attributable to a change in the Work, "reasonable overhead and profit" shall mean: 1. Five percent (5%) of the cost of the change in the Work involved if performed by the Contractor not involving Subcontractors, or

2. Five percent (5%) of the cost of the change in the Work involved performed by Subcontractors, plus two percent of the cost of the change in the Work for the Contractor's supervision of the work performed by the Subcontractors. When both additions and credits covering related Work are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change. No overhead and profit shall be paid to the Contractor for an increase in the cost of the surety bond or insurance premiums resulting from a change in the Work. In the event of an increase in the Contract Sum resulting from an additive change order, the actual amount of any increase in the cost of Contractor's surety bond shall be added to the amount of the change order. Similarly in the event of a decrease in the Contract Sum resulting from a deductive change order, the amount of any decrease in the cost of Contractor's surety bond shall be added to the amount shown in the deductive change order, by which the Contract Sum is to be reduced.

All change order requests must be submitted with the following backup information or they will not be reviewed by the Architect or Owner: material and labor quantities, material unit costs, labor rates, and any other substantiating data to explain the change order amount.

### § 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 for the purposes of defining the change and/or how payment shall be calculated, but not for the purpose of approving payment.

§ 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 Section 7.2.3. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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

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

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

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

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment.

The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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

#### § 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing.

#### § 7.5 Continuation of Work Pending Resolution

Pending final determination of cost to the Owner or extension of time to the Contractor, unless otherwise directed by Owner, Contractor shall continue to perform the Work in accordance with the Contract Documents.

### ARTICLE 8 TIME

#### § 8.1 Definitions

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

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

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

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

#### § 8.2 Progress and Completion

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

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

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time. The Contractor shall achieve Final Completion by the date specified in the Agreement or, if no such date is specified, 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 which are not caused by the wrongful or negligent acts, errors or omissions of Contractor, its agents, employees or Subcontractors; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.5.2, or other causes beyond the Contractor's control; or (4) by delay authorized by the Owner pending mediation and binding dispute resolution, then, provided that the Contractor is in compliance with all other relevant provisions of the Contract Documents, the Contract Time shall be extended for such reasonable time as the Architect may determine and as approved by Contractor and Owner; provided, however, that such extension of Contract Time shall be net of any delays caused by or due to the fault or negligence of the Contractor or which are otherwise the responsibility of the Contractor and shall also be net of any contingency or "float" time allowance included in the Contractor's construction schedule. The Contractor shall, in the event of any occurrence likely to cause a delay, cooperate in good faith with the Architect and Owner to minimize and mitigate the impact of any such occurrence and do all things reasonable under the circumstances to achieve this goal.

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

§ 8.3.3 Extension of Contract Time pursuant to this Article 8 shall be the Contractor's sole and exclusive remedy for delay.

§ 8.3.4 Extension of Contract Time resulting from Changes in the Work shall be negotiated into respective Change Orders. 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 written reference to the approved construction 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.

§ 8.3.5 In addition to liquidated damages set forth elsewhere in the Contract Documents, if any, the Contractor shall reimburse the Owner for all Architect's fees for additional services necessitated by (1) Contractor's failure to achieve Substantial Completion within the time established in the Contract Documents; (2) for more than one inspection for Substantial Completion; and (3) for more than one inspection for Final Completion.

## 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 changed by more than 25% in a proposed Change Order or Construction Change Directive, 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. Each section of the schedule organized by Subcontract shall further allocate each Subcontractor's Work into discrete tasks with values corresponding to each task. The total of all values for all tasks for all Subcontractors shall equal the Contract Sum. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment. Approval by the Owner of the schedule of values (and revisions thereto) shall be a condition precedent to certification of Contractor's applications for payment.

### § 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values 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. Until Final Completion, the Owner will pay ninety percent (90%) of the amount due the Contractor on account of progress payments. No interest will be paid on retention amounts. Provided, however, that after the Work is seventy percent (70%) complete, Owner may, without reduction of previous retainage, determine to pay Contractor remaining progress payments for each work category in full. The Contractor's inclusion in an Application for Payment of an amount owed to a Subcontractor shall constitute the Contractor's certification to the Owner that such Subcontractor is entitled to payment in that amount, and that there are no back-charges, Claims, or other disputes then pending or anticipated which may impact that Subcontractor's right to such payment. Contractor shall submit all Applications for Payment in a consistent format.

When the contract work has been awarded on a unit price bid basis, the form of each application shall follow the Bid Proposal Form, listing each item number, the total quantity of units completed to date of the estimate, the unit price and subtotal. The subtotal column shall be added to show the total cost of work completed to date, less ten (10%) percent to be withheld giving the total amount requested for payment. Previous applications for payment paid by the Owner shall be shown on each subsequent request and subtracted after the ten (10%) percent has been withheld.



§ 9.3.1.1 Such applications may include requests for payment on account of changes in the Work that have been properly authorized by Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor has not approved payment to a Subcontractor or supplier, unless such Work has been performed by others and the Contractor has approved said payment.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.3.4 All Applications for Payment shall be accompanied by lien waivers from the Contractor and applicable Subcontractors. The lien waivers, when taken together, shall equal the sum due and paid under the immediately preceding Application for Payment, and shall be effective through the submittal date of the immediately preceding Application. All applications for payment shall be accompanied by affidavits, in triplicate, from the Contractor and Subcontractors containing such information and in such form as to comply with the Illinois Mechanics Lien Act (770 ILCS 60/0.01 *et seq.*) and showing in detail the sources of all labor and materials used and contracted to be used on the Project, including names and addresses of subcontractors and material suppliers; amounts paid and remaining to be paid to each; lien waivers in a form acceptable to Owner; together with all other documents as shall be necessary, in the sole judgment of the Architect and Owner, to waive all claims of liens to date and comply with all applicable state and local laws.

§ 9.3.5 All Applications for Payment shall be accompanied by the Contractor's and Subcontractors' certified payrolls as required by the Illinois Prevailing Wage Act, 820 ILCS 130/5.

§ 9.3.6 Submission of properly executed lien waivers, affidavits, and the certified payrolls shall be conditions precedent to certification of the respective Application for Payment. Failure to supply waivers of lien or acceptable evidence of payment, affidavits and certified payroll of all current accounts incurred by this Contract work will be considered grounds for withholding final payment.

#### § 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, and not Contractor, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1)

made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### § 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made, or if any other condition precedent to payment has not occurred. 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 If Contractor disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, Contractor shall 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. No interest will be paid on payments 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 If at any time there is evidence of any liens or claims for which, if established, the Owner may become liable for and which would be chargeable to the Contractor or any Subcontractor, the Owner shall have the right to retain, out of any payment due or thereafter to become due to Contractor or a Subcontractor, an amount sufficient to completely indemnify the Owner against such lien or claim, including any reasonable attorneys' fees that have been or may be incurred by the Owner. Should any such evidence be established after all payments are made, the Contractor or Subcontractor shall repay the Owner all sums which the Owner may be compelled to pay in discharging such lien or claim, including all reasonable attorneys' fees and other costs resulting from such lien or claim.

#### § 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate

agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

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

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 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.

§ 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.

§9.6.9 The Owner shall withhold ten percent (10%) from the periodic Progress Payments to the Contractor 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. Contractor shall ensure that each contract between Contractor and each subcontractor contains this same provision for the withholding and release of retention.

## § 9.7 Failure of Payment

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

## § 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. 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 documented, and all final finishes within the Contract are in place. In general, the only remaining Work shall be minor Punch List items, so that the Owner can occupy the Project on that date and the completion of the Work by the Contractor will 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 by the Final Completion date specified in the Agreement ("Final Completion Date") or, if no such date is specified, within thirty



(30) calendar days following the date of Substantial Completion. Upon the Final Completion Date, or if no Final Completion Date is specified, within thirty (30) days after Substantial Completion, the Contractor shall secure and deliver to the Owner written warranties and guarantees from all 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 performed by Subcontractors at any tier. If in the event Contractor does not complete remaining work by the Final Completion Date, or if no such date is specified, within thirty (30) days of Substantial Completion, Owner shall give the Contractor written notice of the remaining Work to be completed. If the Contractor fails to complete the remaining work to be completed within five (5) days of receipt of the written notice, the Owner reserves the right to complete the remaining Work in accordance with § 2.4 without further notice to the Contractor. All costs incurred by Owner therein shall be offset against Contractor's final payment.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment (the "Punch List"). Failure to include an item on the Punch 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 Punch 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 Punch 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 Contract Documents or the Certificate of Substantial Completion.

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

§ 9.8.6 Upon Substantial Completion, the Contractor and Subcontractors hereby assign all vendor and manufacturers' warranties to the Owner. All such warranties shall be submitted to the Architect prior to submission of the final Application for Payment.

§ 9.8.7 The Contractor's submittal of the following documents shall be a condition precedent to a determination of Substantial Completion:

- a. All Record Documents required in conformance with the Contract Documents;
- b. All Operations and Maintenance Manuals (two hard copies and one electronically-submitted copy); and
- c. All Manufacturers' warranties (two hard copies and one electronically-submitted copy).

## § 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 depicted on the Contractor's Punch List and thereafter identified in the Architect's inspection shall be completed by Contractor at the time specified in the Agreement or, if no date is specified, within thirty (30) days of issuance of the Certificate of Substantial Completion. 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, and the Architect has advised Owner of that finding and Owner has not advised Architect of any objection to such finding, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation to Owner and not Contractor that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. Owner's failure to object to and Owner's acceptance of Architect's findings hereunder shall not limit Architect's obligation to properly perform his duties under the Contract Documents and shall not constitute Owner's acceptance of Work not complying with the requirements of the Contract Documents or Owner's waiver of any claims or remedies it may have with respect to any such defective or delayed Work.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no 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, less retention. 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. The final payment by Owner shall not relieve the Contractor of the responsibility for the correction of any and all defects in the work performed. Contractor shall correct all defects as notified for the applicable warranty period after final payment.

#### § 9.10.4 Intentionally Stricken.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and specifically 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. Contractor shall be responsible for securing all tools, materials and equipment left on site.

§ 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, such activities shall only be done with written consent of Owner and 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 wrongful 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. The person designated as responsible for prevention of accidents shall hold regularly scheduled meetings with representatives of Subcontractors, and in the event of separate contracts, hold meetings with other contractors, to promote compliance with governing safety regulations.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

#### § 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

#### § 10.3 Hazardous Materials and Substances

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

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

#### § 10.3.3 Intentionally Stricken.

§ 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.

§ 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.

#### § 10.4 Emergencies

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

### ARTICLE 11 INSURANCE AND BONDS

#### §11.1 CONTRACTOR'S INSURANCE REQUIREMENTS.

Contractor shall procure and maintain for the duration of the contract, insurance against claims for death, injuries, sickness to persons, or damages to property which may arise from or in connection with the performance of work hereunder by the Contractor, his agents, representatives, employees or subcontractors, anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, of the types and in the amounts listed below.

**§11.1.1 Commercial General and Umbrella Liability Insurance.** Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location. CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). Owner, its



elected and appointed officials, employees, agents and volunteers, and Architect shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to Owner and Architect. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

**§11.1.2 Continuing Completed Operations Liability Insurance.** Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each occurrence for at least three years following substantial completion of the work. Continuing CGL insurance shall be written on ISO occurrence form CG 00 01, or substitute form providing equivalent coverage, and shall, at minimum, cover liability arising from products-completed operations and liability assumed under an insured contract. Continuing CGL insurance shall have a products-completed operations aggregate of at least two times its each occurrence limit. Continuing commercial umbrella coverage, if any, shall include liability coverage for damage to the insured's completed work equivalent to that provided under ISO form CG 00 01.

**§11.1.3 Business Auto and Umbrella Liability Insurance.** Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto including owned, hired and non-owned autos. Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

**§11.1.4 Workers Compensation Insurance.** Contractor shall maintain workers compensation as required by statute and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease. If Owner has not been included as an insured under the CGL using ISO additional insured endorsement CG 20 10 under the Commercial General and Umbrella Liability Insurance required in this Contract, the Contractor waives all rights against Owner and its officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Contractors work.

**§11.1.5 Contractor's Obligation to Insure for Bodily Injury Claims.** In addition to the above, the Owner will require all Contractor's to purchase insurance to cover claims and expenses asserted against Architect, its employees and consultants for bodily injury, sickness, disease, or death cause by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable.

#### **§11.1.6 General Insurance Provisions**

.1 Evidence of Insurance Prior to beginning work, Contractor shall furnish Owner with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above. All certificates shall provide for 30 days written notice to Owner prior to the cancellation or material change of any insurance referred to therein. Written notice to Owner shall be by certified mail, return receipt requested. Failure of Owner to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of Owner to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance. Owner shall have the right, but not the obligation, of prohibiting Contractor or any subcontractor from entering the project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by Owner. Failure to maintain the required insurance may result in termination of this Contract at Owner's option. With respect to insurance maintained after final payment in compliance with a requirement above, an additional certificate(s) evidencing such coverage shall be promptly provided to Owner whenever requested. Contractor shall provide certified copies of all insurance policies required above within 10 days of Owner's written request for said copies.

. 2 Acceptability of Insurers. For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best Key Rating Guide. If the Bests rating is less than A VII or a Best's rating is not obtained, the Owner has the right to reject insurance written by an insurer it deems unacceptable.

.3 Cross-Liability Coverage. If Contractor's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

.4 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to the Owner. At the option of the Owner, the Contractor may be asked to eliminate such deductibles or self-insured retentions as respects the Owner, its officers, officials, employees, volunteers and agents or required to procure a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration and defense expenses.

§ 11.1.7 Contractor shall also protect the Owner by specifically incorporating this Article 11 into every Subcontract entered into and also requiring that every Subcontractor incorporate this Article and its coverage requirements into every sub-subcontract it enters into. Notwithstanding this requirement, this Article 11 is deemed incorporated into every Subcontract and sub-subcontract via such document's flow-through provisions.

§ 11.1.8 Liability of Contractor or Subcontractor is not limited by these insurance requirements or by actual insurance coverage. Nothing contained in the insurance requirements of the Contract Documents is to be construed as limiting the liability of the Contractor, the liability of any Subcontractor of any tier, or the liability of the Architect, or any of their respective insurance carriers. Owner does not, in any way, represent that the coverages or limits of insurance specified are sufficient or adequate to protect the Owner, Contractor, Architect, or any Subcontractor's interest or liabilities, but are merely minimums. The obligation of the Contractor and every Subcontractor of any tier to purchase insurance shall not, in any way, limit their obligations to the Owner in the event that the Owner should suffer an injury or loss in excess of the amount recoverable through insurance, or any loss or portion of the loss which is not covered by either the Architect's, Contractor's or any Subcontractor's insurance.

## § 11.2 PROPERTY INSURANCE

§ 11.2.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance in the amount of the initial Contract Sum as well as subsequent modifications thereto for the entire Work at the site on a replacement cost basis without voluntary deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Paragraph 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Paragraph 11.2 to be covered, whichever is earlier. This insurance shall include the respective interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work.

§ 11.2.2 Property insurance shall be on a course of construction policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, false work, windstorm, testing and start-up, temporary buildings and debris removal, including demolition, and shall cover reasonable compensation for the Architect's, any of the Owner's Consultant's services and expenses required as a result of such insured loss. Owner shall not be required to provide coverage for other perils unless otherwise provided in the Contract Documents. Property insurance provided by the Owner shall not cover Contractor's, Subcontractor's or Sub-subcontractor's liability or any tools, apparatus, machinery, scaffolding, hoists, forms, staging, shoring or other similar items commonly referred to as construction equipment, which may be on the site and the capital value of which is not included in the Work. The Contractor shall make his own arrangements for any insurance he may require on such construction equipment.

§ 11.2.3 The Contractor shall effect insurance which will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work.

§ 11.2.4 If the property insurance requires minimum deductibles and such deductibles are identified in the Contract Documents, the Contractor shall pay costs not covered because of deductibles. If the Owner or insurer increases the required minimum deductibles above the amounts so identified or if the Owner elects to purchase this insurance with voluntary deductible amounts, the Owner shall be responsible for payment of the additional costs not covered because of such increased or voluntary deductibles. If deductibles are not identified in the Contract Documents, the Owner shall pay costs not covered because of deductibles.

§ 11.2.5 Unless otherwise provided in the Contract Documents, this property insurance shall cover portions of the Work stored off the site and paid for by Owner after written approval of the Owner at the value established in the approval, and also portions of the Work in transit and paid for by Owner.

§ 11.2.6 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.2.7 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§11.2.8 Notwithstanding any provision contained in Section 11.2, including paragraphs 11.2.1 through and including 11.2.7 and Section 11.3, the Owner's obligation to purchase insurance shall herein be deemed satisfied by the Owner's membership in a self-insured risk management agency or pool. The Contractor agrees that any obligation the Owner has to purchase property insurance shall be satisfied by the Owner's membership in a self-insured risk management agency or pool. The Contractor further agrees that it will only have rights allowable to it under any coverage provided through the Owner's membership in a self-insured risk management agency or pool.

### § 11.3 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor Subcontractors and Sub-subcontractors in the Work, and the Owner and the Contractor shall be named insureds.

### § 11.4 PERFORMANCE BOND AND PAYMENT BOND

§ 11.4.1 The Contractor shall deposit with the Owner before commencing any Work an AIA A312-2010 *Performance Bond and Payment Bond*, or such other form as approved by Owner, for 110% of the Contract Sum, guaranteeing the faithful performance of the work in accordance with the Contract, the payment of all indebtedness incurred for labor and materials, payment of the prevailing wage in accordance with paragraph 13.1.2.1, and guarantee correction of work. The Surety must be approved by the Owner, and be licensed to conduct business in the State of Illinois and be named in the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury. The payment and performance bonds shall strictly comply with the Public Construction Bond Act, 30 ILCS 550/0.01, *et seq.*, and with all provisions of this Article 11. The Contractor and all subcontractors shall name the Owner as an obligee on all bonds.

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

§ 11.4.3 If at any time the Owner shall become reasonably dissatisfied with any surety, or for any other reason such bonds shall cease to be adequate security for the Owner, Contractor shall, within five (5) days after notice to do so, substitute acceptable bonds in such form and sum and signed by such other surety or sureties as may be reasonably satisfactory to the Owner. No further payment shall be deemed due nor shall be made to Contractor until the new surety or sureties shall have met the Owner's qualifications.

§ 11.4.4 All performance and payment bonds required by this Article 11 shall be deemed modified to the extent to be consistent with this Article 11. A certified copy of the power of attorney from the surety company stating that the person executing the bond is duly authorized by the surety to execute the bond shall be attached to the bond.

§ 11.4.5 Whenever the Contractor shall be and is declared by the Owner to be in default under the Construction Contract, the surety shall be responsible to compensate the Owner for the following costs incurred by the Owner as

they result from the default: 1) any and all extra work and/or corrective work, 2) additional Architect costs, 3) accounting costs, 4) legal costs and reasonable attorneys' fees, 5) testing, consulting, and other engineering costs, 6) any other costs necessarily incurred and resulting from the default. Notwithstanding, the surety's obligations shall not exceed the penal sum of the bond.

§ 11.4.6 All terms and conditions of all Contract Documents, including these A201 general conditions, as amended, shall be deemed incorporated by reference into each bond furnished in connection with this Article 11. In case of any conflict between any provision of any performance or payment bond and the Contract Documents, the provisions of the Contract Documents shall prevail to the extent of such conflict.

§ 11.4.7 Any provision of any bond purporting to create a condition precedent for Owner not otherwise contained in the Contract Documents, or which otherwise purports to abrogate or nullify the Owner's rights or remedies otherwise available in contract, law, or equity, is void. If any provision of any bond purports to shorten the period of limitations and/or the period of repose as provided in Section 13-214 of the Code of Civil Procedure, 735 ILCS 5/13-214, or if any provision of any bond purports to shorten any other applicable statute of limitation or repose, such provision of such bond shall be null and void, but all other provisions of such bond shall remain enforceable.

§ 11.4.8 In the event any surety shall make any assignment for the benefit of creditors or commit any act of bankruptcy, or is declared bankrupt, or if it shall file a voluntary petition in bankruptcy, or shall in the opinion of the Owner be insolvent, the Contractor shall immediately upon request by the Owner furnish and maintain other bonds satisfactory to the Owner.

§ 11.4.9 No surety shall assert solvency of its principal or its principal's denial of default as a defense to any claim under any bond furnished in accordance with this Article 11.

## 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 Owner's or Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Owner or Architect, be uncovered for the Owner's or Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Owner or Architect has not specifically requested to examine prior to its being covered, the Owner or 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 Owner or 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 one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents,



any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor an express written acceptance of such specific condition. The Owner shall give such notice promptly after discovery of the condition. 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. Notwithstanding the foregoing, Contractor shall correct Work deficiently or defectively performed, and replace defective or nonconforming materials, even though such deficiency, defect or nonconformity may be discovered more than one year after Final Completion, if the correction is of a latent defect and arises from poor workmanship or improper materials or is required to be made to workmanship or materials covered by Contractor or Subcontractors contrary to the Architect's request or to requirements specifically expressed in the Contract Documents and was therefore not visible for inspection by Architect or Owner at the time the Work was performed.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall be extended on specific items of Work identified as defective, and such extension shall commence upon the performance of corrective Work by the Contractor pursuant to this Section 12.2. Such extension shall expire one year from the date of completion of such corrective Work.

§ 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 any 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 Owner may seek to enforce that obligation or any other obligation arising under the Contract Documents.

§ 12.2.6 All other warranties and guarantees required by the Contract Documents shall be provided to the Architect prior to Substantial Completion, and are separate obligations from the obligations contained in this Section 12.2.

### § 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 by express written notice to the Contractor instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## ARTICLE 13 MISCELLANEOUS PROVISIONS

### § 13.1 Governing Law

The Contract shall be governed by the law of the State of Illinois without regard for conflict of law principles.

### § 13.1.2 COMPLIANCE WITH LAWS

Contractor shall abide by and comply with all applicable Federal, State and local laws and rules and regulations including without limitation those relating to 1) fair employment practices, affirmative action and prohibiting discrimination in employment; 2) workers' compensation; 3) workplace safety; 4) wages and claims of laborers, mechanics and other workers, agents, or servants in any manner employed in connection with contracts involving public funds or the development or construction of public works, buildings or facilities; and 5) steel products procurement. Contractor's Compliance and Certification Attachment, including the Substance Abuse Prevention Program Certification, is attached to and incorporated herein by reference.

As a condition of the award of the Contract to contractor, Contractor shall certify, affirm and agree as follows, which certifications, affirmations and agreements shall be incorporated in and hereunder as a part of the Contract:

.1 The Contractor shall comply with the requirements of the Illinois Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*) and the Owner's Ordinances requiring payment of prevailing wages. The Contractor shall pay or cause to be paid not less than the prevailing rate of hourly wage in the county the work is performed as determined by the Illinois Department of Labor for the month in which the work is performed including but not limited to all laborers, workers and mechanics. All contractors and subcontractors rendering services under this contract must comply with all requirements under the Act, including but not limited to, all wage, notice and record keeping duties.

The Contractor is required to verify current prevailing wage prior to the first day of each month and to pay the then-current prevailing wage rate as determined by the Illinois Department of Labor, regardless of the rates contained in the Contract Documents. Any increases in costs to the Contractor due to the changes in the prevailing wage during the term of this Contract shall be at the expense of Contractor and not at the expense of Owner. Current prevailing wage rates are published at the following website: <http://labor.illinois.gov/>. The Contractor agrees to indemnify and hold harmless the Owner for any violations of the Prevailing Wage Act.

The Contractor shall also: (1) insert into each subcontract and the project specifications for each subcontract, a written stipulation that the subcontractor shall not pay less than the prevailing rate of hourly wage to all laborers, workers, and mechanics performing work under the contract; and (2) require each subcontractor to insert into each lower-tiered contract and the project specifications for each lower-tiered subcontract, a stipulation that the subcontractor shall not pay less than prevailing rate of hourly wage to all laborers, workers, and mechanics performing work under the contract.

The Contractor shall include on all bonds and shall cause all subcontractors' bonds required under the Contract Documents to guarantee compliance with the Prevailing Wage Act.

Additionally, the Contractor and each subcontractor shall make and keep, for a period of not less than five (5) years from the date of the last payment on a contract or subcontract, records of all laborers, mechanics, and other workers employed by them on the Project; the records shall include each worker's name, address, telephone number when available, social security number, classification or classifications, the hourly wages paid in each pay period, the number of hours worked each day, and the starting and ending times of work each day. The Contractor shall submit monthly, no later than the 10th day of each calendar month, in person, by mail, or electronically a certified payroll to the Owner with each monthly pay request in the form attached to the Contract Documents. The certified payroll shall be accompanied by a statement signed by the Contractor or subcontractor which states that: (i) he or she has examined the certified payroll and such records are true and accurate; (ii) the hourly rate paid to each worker is not less than the general prevailing rate of hourly wages required by this Act; and (iii) the Contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor. The Contractor may rely on the certification of a lower tier subcontractor, provided the Contractor does not knowingly rely upon a subcontractor's false certification. The records submitted in accordance with this payroll submittal provision shall be considered public records pursuant to Section 5 of the Prevailing Wage Act, 820 ILCS 130/5 (2004, as amended by P.A. 94-515). The Owner may, at its option, immediately terminate the Contract in the event that Contractor violates any provision of this paragraph or the Prevailing Wage Act.

Contractor shall also post the prevailing wage rates for each craft or type of worker or mechanic needed to

complete the project at either: (1) a location on the project site easily accessible to the workers engaged on the project; or (2) in lieu of posting on the project site, if the Contractor has a business location where laborers, workers, and mechanics may regularly visit, the Contractor may either post the prevailing rate of wages in each county the Contractor works in a conspicuous location or provide the laborers, workers or mechanics engaged on the project a written notice indicating the prevailing rate of wages for the project.

Upon seven business days' notice, the Contractor and each subcontractor shall make available for inspection and copying at a location within this State during reasonable hours, the records identified in 820 ILCS 130/5(a)(1) to the Owner, and its officers and agents.

§ 13.1.3 The Contractor shall be required to remain for the entirety of the Contract in compliance with the foregoing legal requirements. A violation is grounds for the immediate termination of the Contractor for cause. However, any forbearance in delay by the Owner in terminating Contractor or canceling the Contract shall not constitute a waiver of any right the Owner may have, including without limitation termination of Contractor, cancellation of the Contract and recovery of damages.

§ 13.1.4 This contract is subject to and shall be construed in accordance with all provisions of law applicable to the Work and the Project. All applicable rules of law shall prevail over any conflicting provision contained in any of the Contract Documents.

### § 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. Contractor shall not assign the Contract in whole or in part without written consent of the Owner.

### § 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, without markup, 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 only in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1, *et seq.*

## ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

### § 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 90 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped; or
- .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, provided the payment is not in dispute.

### § 14.1.2 Intentionally stricken.

§ 14.1.3 If one of the reasons described in Section 14.1.1 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work properly executed in conformance with the Contract Documents as of the date of termination.

§ 14.1.4 If the Work is stopped for a period of 90 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' 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 upon seven (7) days' notice to the Contractor terminate its contract with the Contractor or cause the Contractor to terminate any Subcontract with any Subcontractor or Sub-subcontractor if:

- .1 the Contractor, Subcontractor, or Sub-subcontractor fails, except in cases for which extension of time is provided, to prosecute promptly and diligently the Work or to supply enough properly skilled workmen or proper materials for the Work;
- .2 the Contractor, Subcontractor, or Sub-subcontractor institutes proceedings or consents to proceedings requesting relief under the Federal Bankruptcy Act or any similar federal or state law, or if a petition under any federal or state bankruptcy or insolvency law is filed against the Contractor, Subcontractor, or Sub-subcontractor and such petition is not dismissed within sixty (60) days from the date of filing, or if the Contractor, Subcontractor, or Sub-subcontractor admits in writing its inability to pay its debts

generally as they become due, or makes a general assignment for the benefit of creditors, or if a receiver, liquidator, trustee or assignee is appointed on account of such bankruptcy or insolvency;

- .3 the Contractor, Subcontractor, or Sub-subcontractor abandons the Work;
- .4 the Contractor, Subcontractor, or Sub-subcontractor submits an Application for Payment, sworn statement, waiver of lien, certified payroll, affidavit or other document of any nature whatsoever which is intentionally falsified or which the Contractor, Subcontractor, or Sub-subcontractor knows to contain a false statement;
- .5 a mechanic's or materialman's lien or notice of lien or claim of lien is filed against any part of the Work, the public funds allocated for the Work, or on the site of the Project, if after written demand by the Owner such lien is not promptly released or satisfied;
- .6 the Contractor, Subcontractor, or Sub-subcontractor disregards any laws, statutes, ordinances, rules, regulations or orders of a governmental body or public or quasi-public authority having jurisdiction of the Work or the site of the Project;
- .7 the Contractor fails to make prompt payment to Subcontractors for materials or labor or otherwise breaches obligations under any subcontract with a Subcontractor, or Subcontractor fails to make prompt payment to Sub-subcontractors for materials or labor or otherwise breaches obligations under any subcontract with a Sub-subcontractor; or
- .8 the Contractor or Subcontractor otherwise violates any material provision of the Contract Documents

Upon termination as provided herein, Owner may take possession of the Project and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and accept assignment of Subcontracts and may complete the Work by whatever reasonable method the Owner may deem expedient. If requested by the Owner, the Contractor shall remove any part or all of his equipment, machinery and supplies from the Project within seven (7) days from the date of such request, and in the event of the Contractor's failure to so, the Owner shall have the right to remove or store, or remove and store, such equipment, machinery and supplies at the Contractor's expense. In case of such termination, the Contractor shall not be entitled to receive any further payment for Work performed by the Contractor through the date of termination until final completion of the Work

The termination rights under this Subparagraph 14.2.1 shall be in addition to and not in limitation of any rights or remedies, contractual, statutory or otherwise.

§ 14.2.2 In the event of termination pursuant to Section 14.2, the Contract Sum shall be reduced by Change Order to reflect any increased costs to the Owner of completing the Work, and if the unpaid balance of the Contract Sum exceeds all costs to the Owner of completing the Work, the Contractor shall pay the difference to the Owner upon written demand by the Owner. Such costs shall include but not be limited to the cost of any additional architectural, managerial and administrative services required thereby, any costs incurred in retaining another Contractor or other Subcontractors, any additional interest or fees which the Owner must pay by reason of a delay in completing of the Work, reasonable attorneys' fees and expenses, and any other damages, costs and expenses the Owner may incur by reason of completing the Work or any delay thereof. The amount, if any, to be paid to the Contractor shall be certified by the Architect, upon application, in the manner provided in Paragraph 9.4, and this obligation for payment shall survive the termination of the Contract.

§14.2.3 The Owner's right to terminate the Contract pursuant to Section 14.2 shall be in addition to and not in limitation of its right to stop the Work without terminating the Contract pursuant to Section 2.4.

#### § 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause and in its sole discretion, 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 To the extent not due to the fault of Contractor, the Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

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

#### § 14.4 Termination by the Owner for Convenience

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

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

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed in conformance with the Contract Documents.

### ARTICLE 15 CLAIMS AND DISPUTES

#### § 15.1 Claims

##### § 15.1.1 Definition

A Claim is a demand or assertion by the Contractor 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.

##### § 15.1.2 Notice of Claims

§ 15.1.2.1 Claims by the Contractor, shall be initiated by notice to the Owner and to the Initial Decision Maker, if any, with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by the Contractor under this Section 15.1.2.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.2.2 Claims by the 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 Owner. In such event, no decision by the Initial Decision Maker is required.

##### § 15.1.3 Continuing Contract Performance

§ 15.1.3.1 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.

§ 15.1.3.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, if any, 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.

##### § 15.1.4 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.2 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.

##### § 15.1.5 Claims for Additional Time

§ 15.1.5.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.2 shall be given. The Contractor's Claim shall include an estimate of probable effect of delay on

progress of the Work. In the case of a continuing delay, only one Claim is necessary. For Claims for Additional Time, to the extent that an equitable extension of Contract Time is warranted, such extension shall be the Contractor's sole and exclusive remedy.

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

§ 15.1.5.3 For all Claims for Additional Time, the Contractor shall support such Claims in the same manner as supporting additional time for Change Orders.

#### § 15.1.6 Waiver of Claims for Consequential Damages

The Contractor waives Claims against Owner for consequential damages arising out of or relating to this Contract. This waiver includes

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 waiver is applicable, without limitation, to all consequential damages due to Owner's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 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 by the Contractor ("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, and 10.4, 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 arbitration or litigation, as the case may be, of any Claim initiated by Contractor and arising prior to the date final payment is due. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the Contractor may demand arbitration or dispute resolution, as permitted by this Agreement, 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 days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of 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 not be binding.

#### **§ 15.2.6 Intentionally Stricken.**

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

#### **§ 15.3 Intentionally Stricken**

#### **§ 15.4 Arbitration**

§ 15.4.1 In the sole and exclusive discretion of the Owner, all claims, disputes and other matters in question between any of the Architect, Owner, Contractor, Surety, Subcontractor or any material supplier arising out of, or relating to, agreements to which two or more of said parties are bound, or the Contract Documents or the breach thereof, shall, in the case of such election by the Owner, be decided by arbitration. If the Owner elects such arbitration, it shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect at the time that the demand is made, as modified herein. In any such arbitration, the arbitrator shall make separate findings as to liability and the amount of damages with respect to each party to the arbitration to the extent any liability or responsibility for damages exists. The Architect, surety, subcontractors and material suppliers who have an interest in the dispute shall be joined as parties to the arbitration. The arbitrator shall have authority to decide all issues between the parties. The foregoing agreement to arbitrate and any other agreement to arbitrate with an additional person or persons, duly consented to by the parties, shall be specifically enforceable under the prevailing arbitration law. The award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.1.1 If the Owner elects arbitration, in its sole discretion, notice of the demand for arbitration shall be filed in writing with the other part(ies) to the arbitration and with the American Arbitration Association. Such demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would otherwise be barred by an applicable statute of limitations or repose. Whether such limitations have been met shall be decided by the arbitrator if contested by a party.

§ 15.4.1.2 All parties shall carry on the Work and perform their duties during any arbitration proceedings, and the Owner shall continue to make payments to the extent required by the Contract Documents. However, at the request of any party, contested payments may be placed in an escrow account pending resolution of the dispute.

§ 15.4.1.3 If the Owner elects arbitration, in its sole discretion, in addition to the other rules of the American Arbitration Association applicable to any arbitration hereunder, the following shall apply:

.1 Promptly after the impaneling of the arbitrator, the arbitrator shall establish a procedure for each party to set forth in writing and to serve upon each other party a detailed statement of its contentions of fact and law, along with appropriate responses thereto;

.2 All parties to the arbitration shall be entitled to reasonable discovery procedures as provided by the Illinois Code of Civil Procedure and Illinois Supreme Court Rules, as supplemented by rules to be established by the arbitrator;

.3 The arbitration shall be commenced and conducted as expeditiously as possible consistent with affording reasonable discovery as provided herein. Similarly, the scope of discovery, and the extent of proceedings hereunder relating to discovery, shall be consistent with the parties' intent that the arbitration be conducted as expeditiously as possible.



§ 15.4.2 In the event of any litigation or arbitration between the parties hereunder, the Contractor shall pay the Owner's reasonable attorneys' fees and court costs to the extent the court or tribunal determines the Owner is the prevailing party.

§ 15.4.3 **Waiver of Punitive Damages.** The Contractor and Owner waive all claims against each other for all punitive damages arising out of or relating to this Contract, but nothing in this paragraph shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.4.4 **Venue.** Any suit or action arising under this Contract shall be commenced in Cook County, Illinois.

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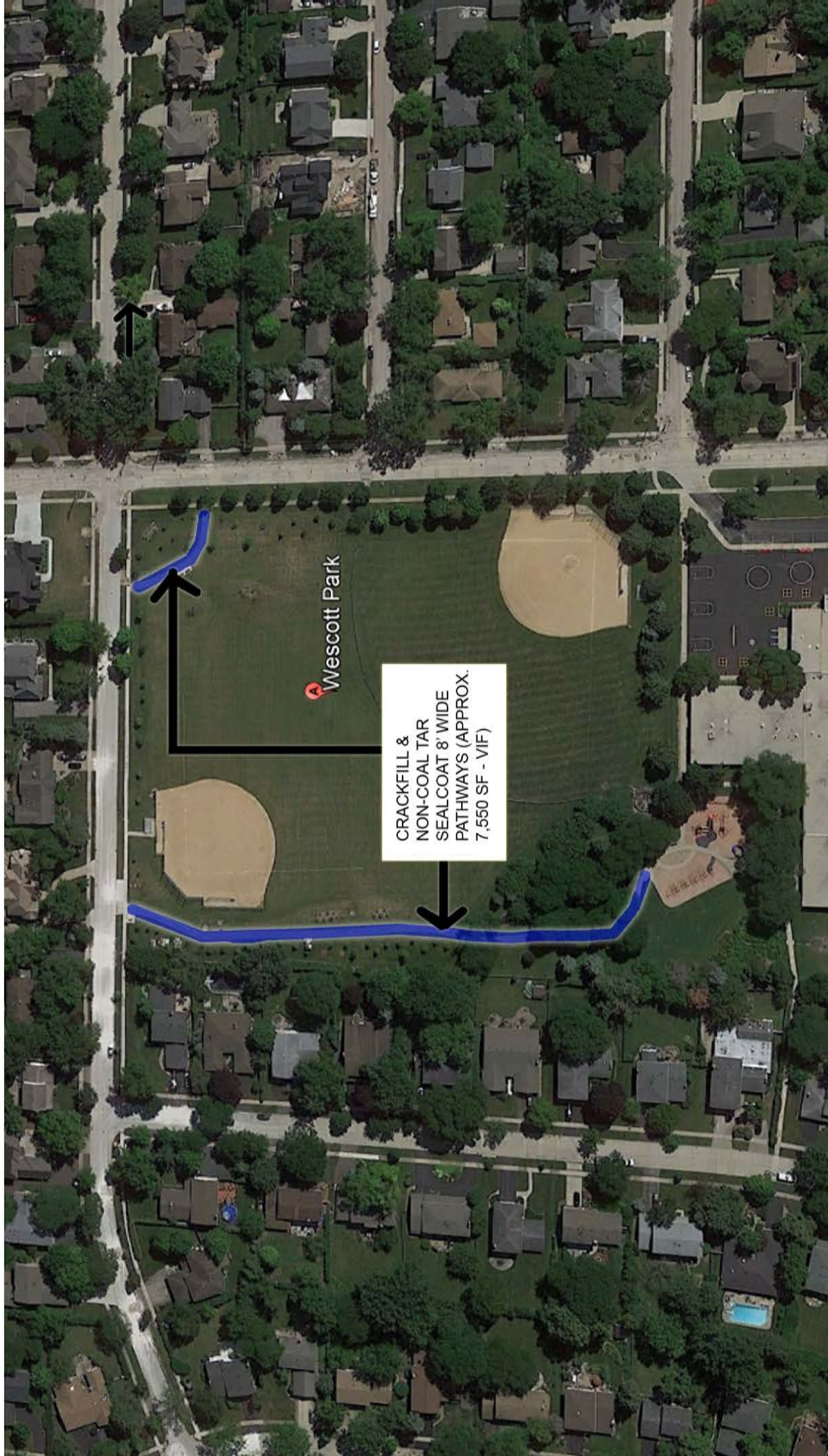
CRACKFILL &  
NON-COAL TAR  
SEALCOAT 8' WIDE  
PATHWAYS (APPROX.  
7,024 SF - VIF)

NOT TO SCALE:  
ALL DIMENSIONS TO BE  
VERIFIED IN FIELD (VIF)

**GREENFIELD PARK**  
2950 HARBOR LN

**EXHIBIT C**



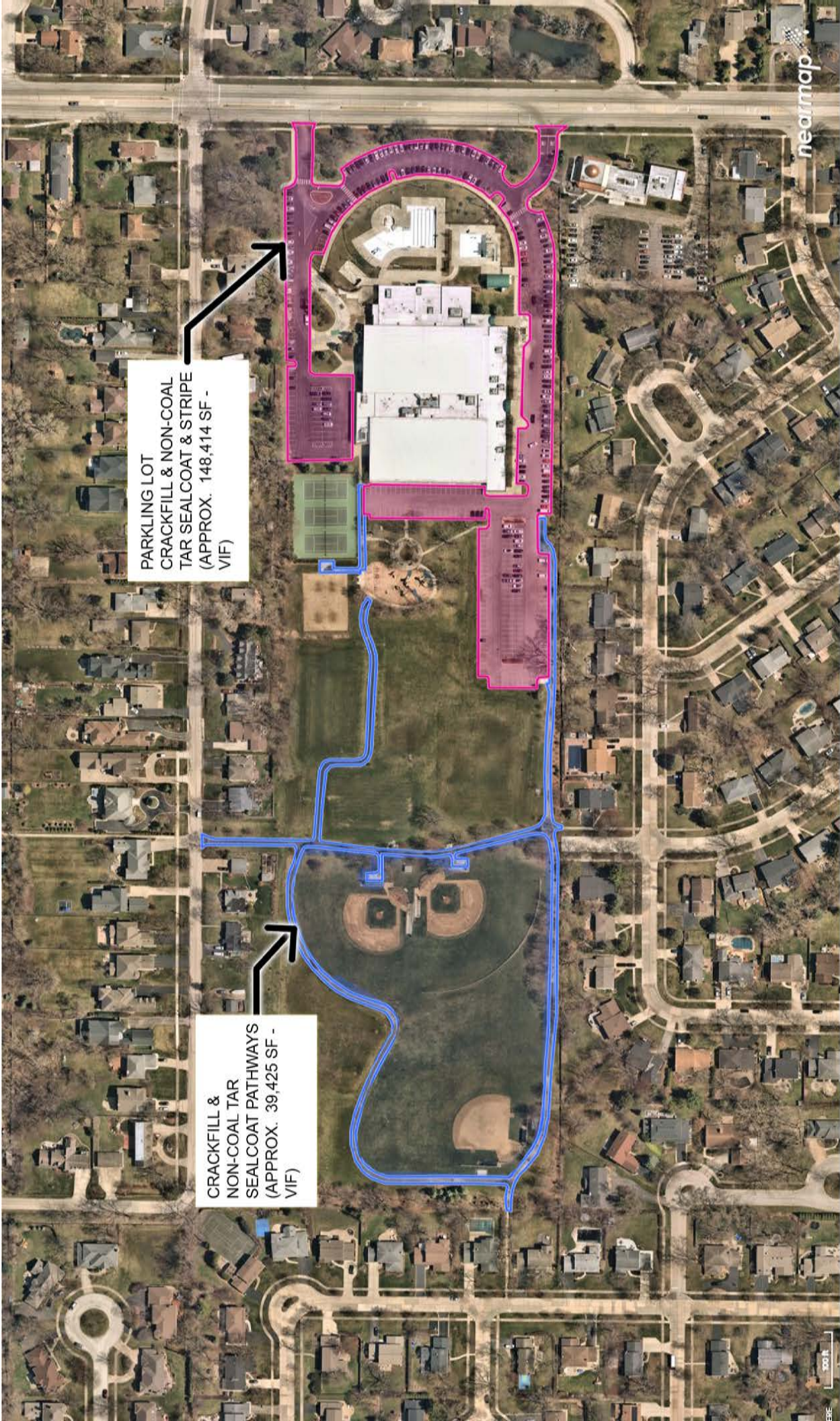


NOT TO SCALE:  
ALL DIMENSIONS TO BE  
VERIFIED IN FIELD (VIF)

**WESCOTT PARK**  
**1820 WESTERN AVENUE**

**EXHIBIT D**





PARKING LOT  
CRACKFILL & NON-COAL  
TAR SEALCOAT & STRIPE  
(APPROX. 148,414 SF -  
VIF)

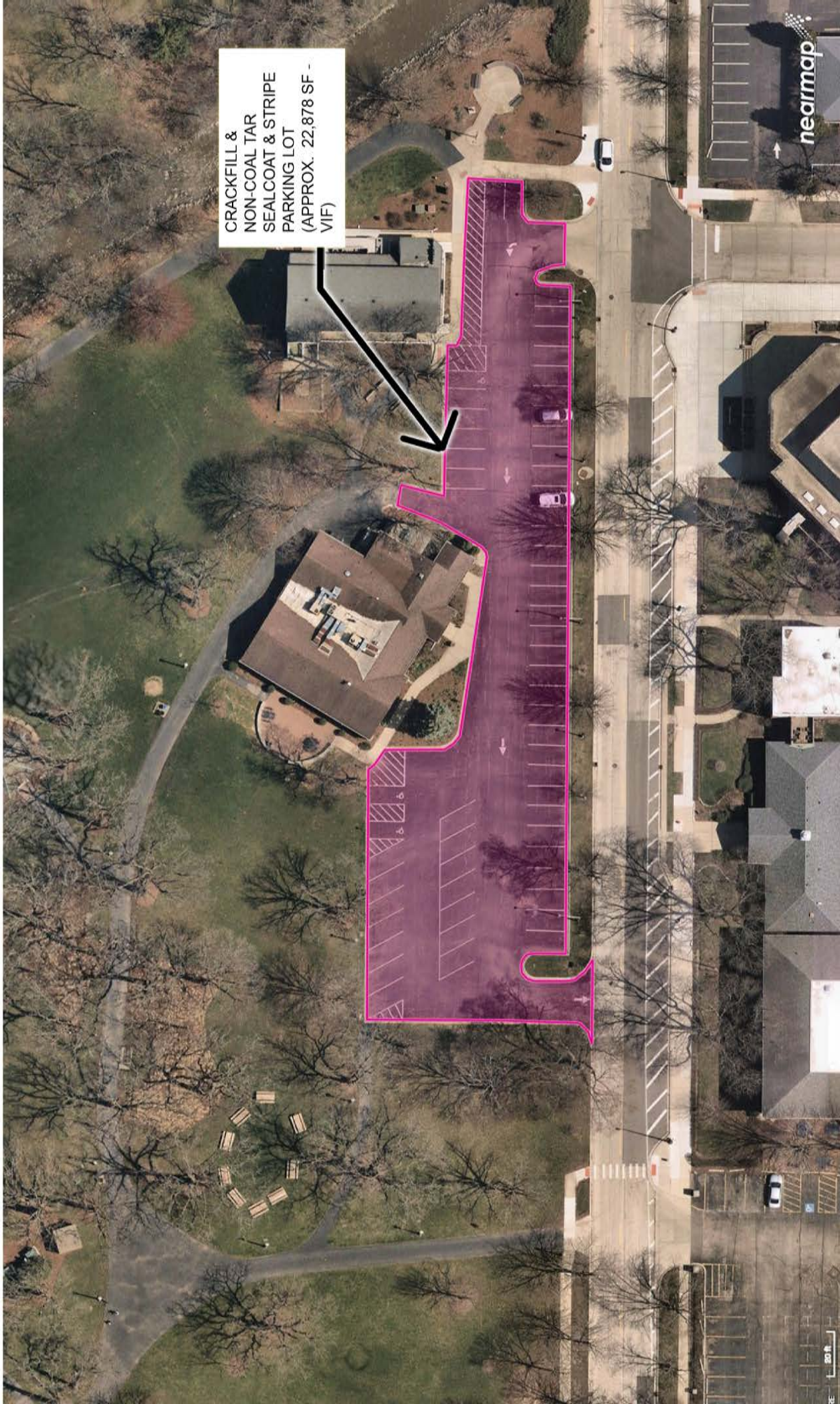
CRACKFILL &  
NON-COAL TAR  
SEALCOAT PATHWAYS  
(APPROX. 39,425 SF -  
VIF)

NOT TO SCALE:  
ALL DIMENSIONS TO BE  
VERIFIED IN FIELD (VIF)

SPORTS CENTER & WEST PARK  
1730 PFINGSTEN ROAD

EXHIBIT E





NOT TO SCALE:  
ALL DIMENSIONS TO BE  
VERIFIED IN FIELD (VIF)

VILLAGE GREEN CENTER  
1810 WALTERS AVE

EXHIBIT F