



**PROJECT MANUAL**

**FOR**

**T POINT CANOPY**

**PROJECT NUMBER: AVIA ITB 26-20**

**CHARLOTTE DOUGLAS INTERNATIONAL AIRPORT  
CITY OF CHARLOTTE, NORTH CAROLINA**

**ADVERTISEMENT DATE: January 16, 2026**

**(Vertical Non-Federal)**

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**I. INVITATION TO BID**

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**INVITATION TO BID**

The City of Charlotte (the "City") hereby invites sealed bids for the following project at Charlotte Douglas International Airport:

**PROJECT NAME:** T Point Canopy  
**PROJECT NUMBER:** AVIA 26-20

**BID PORTAL LINK:** <https://gateway.app.e-builder.net/app/bidders/landing?accountid=80fe0a4a-0c8f-4fcd-ac93-cc9db65522cb&projectid=8636caaf-bcc9-4176-ab83-cc502ccc0396&bidpackageid=51da3497-cb59-4d4b-a7ee-f5c0be74b6c3>

**PRE-BID MEETING DATE AND TIME:** January 23, 2026, 9:00 AM ET (via Microsoft Teams)  
**PRE-BID MEETING LINK:** [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_YTQyMzUyOGEtOTM2OS00MzYzLWI3OTQtZjkzYzYzMDQ1NGVk%40thread.v2/0?context=%7b%22Tid%22%3a%223392a0ee-6ccb-49c5-94b5-f5e6d8a665d6%22%2c%22Oid%22%3a%22f46a3bc7-f5a8-4d2e-a90b-8480e9b4c0d3%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_YTQyMzUyOGEtOTM2OS00MzYzLWI3OTQtZjkzYzYzMDQ1NGVk%40thread.v2/0?context=%7b%22Tid%22%3a%223392a0ee-6ccb-49c5-94b5-f5e6d8a665d6%22%2c%22Oid%22%3a%22f46a3bc7-f5a8-4d2e-a90b-8480e9b4c0d3%22%7d)  
**PRE-BID MEETING NUMBER:** 285 490 396 438 16  
**PRE-BID MEETING PASSWORD:** 3uU2bJ24

**BID DUE DATE AND TIME:** February 6, 2026, 2:00 PM ET (via Microsoft Teams)  
**BID OPENING LINK:** [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_M2Q0N2QzNTItYjE5Ny00OWlyLWJlNDgtMjY4MzljN2Q3MDg1%40thread.v2/0?context=%7b%22Tid%22%3a%223392a0ee-6ccb-49c5-94b5-f5e6d8a665d6%22%2c%22Oid%22%3a%22f46a3bc7-f5a8-4d2e-a90b-8480e9b4c0d3%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_M2Q0N2QzNTItYjE5Ny00OWlyLWJlNDgtMjY4MzljN2Q3MDg1%40thread.v2/0?context=%7b%22Tid%22%3a%223392a0ee-6ccb-49c5-94b5-f5e6d8a665d6%22%2c%22Oid%22%3a%22f46a3bc7-f5a8-4d2e-a90b-8480e9b4c0d3%22%7d)

**BID OPENING MEETING NUMBER:** 261 652 816 619 34  
**BID OPENING PASSWORD:** 7hS6tW3a

**SCOPE OF WORK:**

This project will construct a 13,684 square feet (SF) canopy for manual baggage sortation between the existing T-point building and the ABR breakroom building. Also included in this scope of work will be concrete demolition and pavement, a modular guard-type hut, a riser room for fire suppression, trench drain removal, and replacement and new pavement striping for additional parking spaces for vehicles and tugs that use this area.

Bidders may obtain the complete Project Manual, including all plans, drawings, specifications, and addenda ("Bid Documents") beginning **January 16, 2026** from the Bid Portal. Bidders may access the bid portal via the Bid Portal link shown above.

**Pre-bid Meeting:** Attendance at the Pre-bid Meeting is not mandatory but is strongly encouraged. Preferred brand alternates, to the extent applicable, will be addressed at the Pre-bid Meeting.

**Title VI Solicitation Notice:** As a condition of a grant award, the Sponsor shall demonstrate that it complies with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d *et seq.*) and implementing regulations (49 CFR part 21) including amendments thereto, the Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, *et seq.*), U.S. Department of

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Transportation and Federal Aviation Administration (FAA) Assurances, and other relevant civil rights statutes, regulations, or authorities, including any amendments or updates thereto.

This may include, as applicable, providing a current Title VI Program Plan to the FAA for approval, in the format and according to the timeline required by the FAA, and other information about the communities that will be benefited and impacted by the project. A completed FAA Title VI Pre-Grant Award Checklist is required for every grant application, unless excused by the FAA. The Sponsor shall affirmatively ensure that when carrying out any project supported by this grant that it complies with all federal nondiscrimination and civil rights laws based on race, color, national origin, sex, creed, age, disability, genetic information, in consideration for federal financial assistance. The Department's and FAA's Office of Civil Rights may provide resources and technical assistance to recipients to ensure full and sustainable compliance with Federal civil rights requirements. Failure to comply with civil rights requirements will be considered a violation of the agreement or contract and be subject to any enforcement action as authorized by law. **A5.3.1**

**Attempts to Influence the Selection Process:** Except for clarifying written questions sent to the ITB Manager, all Bidders, including all persons acting on their behalf, are strictly prohibited from contacting City staff on or regarding any matter relating to this ITB from the time the ITB is issued until the intent to award is communicated to Bidders. **CLT reserves the right to disqualify any Bidder who contacts a City staff concerning this ITB other than in accordance with this ITB.**

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## **II. INSTRUCTIONS TO BIDDERS**

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## INSTRUCTIONS TO BIDDERS

### **1.0 DEFINITIONS**

- 1.1 **AIP.** The Airport Improvements Program, a grant program administered by the Federal Aviation Administration.
- 1.2 **Addendum or Addenda.** Written or graphic instruments issued by the Owner prior to the submission of Bids which modify or interpret the Bidding Documents by additions, deletions, clarifications, or corrections or other type of modifications. Bidders, upon receiving Addenda, shall insert same into the Bid Documents.
- 1.3 **Additive or Deductive Bid Item (Alternate Bid).** An amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted by the Owner.
- 1.4 **Air Operations Area (AOA).** Any area of the Airport specified in the Airport Security Program in which security measures specified in 49 CFR Part 1500 are carried out. This area includes aircraft movement areas, aircraft parking areas, loading ramps, and safety areas for use by aircraft regulated under 49 CFR Parts 1544 or 1546, and any adjacent areas (such as general aviation areas) that are not separated by adequate security systems, measures, or procedures. This area does not include the Secured Area.
- 1.5 **Airport.** The Charlotte Douglas International Airport, including all areas of land or water used or intended to be used for the landing and takeoff of aircraft and including its buildings and facilities, if any. The term “CLT” is synonymous with Airport for the purposes of this procurement and contract.
- 1.6 **Alternate.** An amount stated in a bid for a specific material, product or good that can be added or deducted from the Base Bid by the Owner if the defined changes are made to the Plans or Specifications.
- 1.7 **Authorized Representative.** The firm or individual nominated by the Owner to act on behalf of the Owner; e.g., Engineer and/or Architect of Record, City Project Manager or others as designated by Owner.
- 1.8 **Award.** The acceptance, by the Owner, of the successful bidder’s proposal upon authorization of the Charlotte City Council.
- 1.9 **Base Bid.** The sum stated in the Bid for which the Bidder offers to perform the work described in the Bidding Documents as the base, to which work may be added or from which work may be deducted for sums stated in Additive or Deductive Bid Items.
- 1.10 **Bid.** A complete and properly signed offer to do the work or designated portion thereof for the sums stipulated therein submitted in accordance with the Bidding Documents.
- 1.11 **Bid Documents.** All documents and forms contained in this Project Manual.
- 1.12 **Bid Security.** The security furnished with a Bid to guarantee that the Bidder will enter into the Contract if its Bid is accepted by the Owner.
- 1.13 **Bidder.** Any individual, partnership, firm, corporation or other business entity acting directly through a duly authorized representative, who submits a bid for the Work contemplated.
- 1.14 **Calendar Day.** Every day shown on the calendar. Any reference to the word “day” or “days” shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.

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- 1.15 **Change Order.** A written order to the Contractor covering changes in the Plans, Specifications, or Contract Item quantities and establishing the basis of payment and Contract Time adjustment, if any, for the Work affected by such changes.
- 1.16 **Claim.** A demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract.
- 1.17 **Contract Documents or Contract.** The executed agreement between the Owner and the successful bidder, covering the performance of and compensation for the Work. The term Contract is all inclusive with reference to all written agreements affecting a contractual relationship and all documents referred to therein. The Contract shall include, but not be limited to the Invitation to Bid, Instructions to Bidders, Bid Form and Supplements, Contract Requirements and Forms, required certificates and affidavits, bonds, addenda, technical specifications and plans. The Contract shall constitute one instrument.
- 1.18 **Contract Item or Pay Item.** A specific unit of Work for which a price is provided in the Contract.
- 1.19 **Contract Time.** The number of calendar days or working days, stated in the proposal, allowed for completion of the Contract, including authorized time extensions. If a calendar date of completion is stated in the proposal, in lieu of a number of calendar or working days, the Contract shall be completed by that date.
- 1.20 **Contractor.** The successful Bidder with whom the City contracts for the Work.
- 1.21 **Date of Final Completion (may also be referred to as Final Acceptance).** The date determined and certified by the design professional and Owner on which the Work on the Project is fully and satisfactorily complete in accordance with the requirements of the Contract.
- 1.22 **Disadvantaged Business Enterprise (DBE).** A for-profit small business concern: (a) that is at least fifty-one (51%) percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty-one (51%) percent of the stock is owned by one or more such individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- 1.23 **Engineer.** The individual, partnership, firm or corporation duly authorized by the Owner to be responsible for engineering inspection of the contract work and acting directly or through an authorized representative.
- 1.24 **FAA.** The Federal Aviation Administration of the U.S. Department of Transportation. When used to designate a person, FAA shall mean the Administrator or his duly authorized representative.
- 1.25 **Inspector or Project Inspector.** An authorized representative of the Engineer assigned to make all necessary inspections and/or tests of the work performed or being performed, or of the materials furnished or being furnished by the Contractor.
- 1.26 **Invitation to Bid (ITB).** A public announcement, as required by local law, inviting Bids for Work.
- 1.27 **Major and Minor Contract Items.** A major Contract item shall be any item that is listed in the proposal, the total cost of which is equal to or greater than 25 percent of the total amount of the awarded Contract. All other items shall be considered Minor Contract items.
- 1.28 **Notice To Proceed (NTP).** A written notice to the Contractor to begin the Work on a specified date.



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- 1.29 **Owner.** The City of Charlotte. For the purpose of this Project Manual, the Owner may also be referred to as the **Sponsor, City or Charlotte Douglas International Airport.**
- 1.30 **Payment Bond.** The approved form of security furnished by the Contractor and its surety as a guaranty that it will pay in full all bills and accounts for materials and labor used in the construction of the Work.
- 1.31 **Performance Bond.** The approved form of security furnished by the Contractor and his surety as a guarantee that the Contractor will complete the Work in accordance with the terms of the Contract.
- 1.32 **Plans.** The official drawings or exact reproductions, approved by the Owner, which show the location, character, dimensions and details of the Airport and the Work to be done and which are to be considered as part of the Contract.
- 1.33 **Project.** A specific Airport development. The Work may be a portion or the whole of a Project.
- 1.34 **Project Manual.** The comprehensive compilation of Contract Documents.
- 1.35 **Restricted Area(s).** Areas not open to the public and include all SIDA and Secured Areas, AOA, and non-public portions of the Sterile Area to include the main terminal basement and loading dock area.
- 1.36 **Runway.** The area on the Airport prepared for the landing and takeoff of aircraft.
- 1.37 **SIDA.** The Secure Identification Display Area. The portion of CLT specified in the airport security program in which security measures specified in 49 CFR Part 1542 are carried out. This area includes the Secured Area and may include other areas of the airport. At CLT, it is all of the area inside the perimeter fence, with the exception of the FBO and NC Air National Guard ramp.
- 1.38 **SIDA Badge.** A photo identification badge owned and issued by CLT that authorizes the recipient to enter and be within the SIDA without escort.
- 1.39 **Small Business Enterprise (SBE)** means a business which (a) is at least fifty-one percent (51%) owned by one or more persons (b) the owner has a personal net worth less than 750,000 a year; (c) is located within the metropolitan statistical area and finally (d) has been in business a minimum of 1 year.
- 1.40 **Socially and Economically Disadvantaged Individual** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who a certifier finds to be socially and economically disadvantaged on a case-by-case basis. A determination that an individual is socially and economically disadvantaged is not based in whole or in part on race or sex, but is based on whether the individual can meet the relevant criteria described in 49 CFR Part 26.67. Being born in a particular country does not, standing alone, mean that a person is necessarily socially and economically disadvantaged.
- 1.41 **Specifications.** The written directions and requirements for completing the Work. Standards for specifying materials or testing which are cited in the specifications by reference shall have the same force and effect as if included in the Contract physically.
- 1.42 **Sterile Area.** The portions of CLT defined in the airport security program that provides passengers access to boarding aircraft and to which that access generally is controlled by TSA, or by an aircraft operator under Part 1544 of 49 CFR Chapter XII or a foreign air carrier under Part 1546 of said chapter, through the screening of persons and property. At CLT this is the terminal area beyond the security checkpoints.
- 1.43 **Structures.** Airport facilities such as buildings, bridges; culverts; catch basins; inlets; retaining walls; cribbing; storm and sanitary sewer lines; water lines; underdrains; electrical ducts, manholes, handholes,

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lighting fixtures and bases; transformers; flexible and rigid pavements; navigational aids; buildings; vaults; and, other manmade features of the Airport that may be encountered in the Work and not otherwise classified herein.

- 1.44 **Substantial Completion.** 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 legally, practically, and reasonably occupy or utilize the Work for its intended use.
- 1.45 **Surety.** The corporation, partnership, or individual, other than the Contractor, executing a Bid Payment, Performance or Guaranty Bonds that are furnished to the Owner by the Contractor.
- 1.46 **Taxiway.** For the purpose of this document, the term taxiway means the portion of the AOA of an airport that has been designated by for movement of aircraft to and from the airport's runways or aircraft parking areas.
- 1.47 **Work.** The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

## 2.0 CONTRACT TIME

- 2.1 The date of commencement of the Work shall be fixed by issuance of a written Notice to Proceed from the Owner to the Contractor. The Contract Time shall be measured from the date of commencement. Contractor shall achieve Substantial Completion of the Work within **365 calendar days** from the date of commencement stated in the written Notice to Proceed. Contractor acknowledges that the time for completion of the Work is sufficient for it to perform all the Work. Contractor shall achieve Final Completion, including all required final submittals, no later than **30 calendar days** from the date of Substantial Completion.
- 2.2 **LIQUIDATED DAMAGES:** By submitting a bid, the Contractor acknowledges and agrees that the Owner is authorized to deduct and retain out of the monies due to the Contractor and/or the Contractor is liable to the City for liquidated damages for the Project in the sum of **\$1,000 per calendar day** for each and every day or any portion thereof that the time employed upon said work or delivery may exceed the time stipulated for such performance and completion. The term "day" when used in connection with liquidated damages, shall in all instances include any portion of a day that the work is not timely completed.

The liquidated damages are fixed in view of the difficulty of estimating such damages that the Owner will suffer by reason of such default. The cumulative amount of liquated damages amount will not be capped and may run concurrently. Assessment of liquidated damages does not preclude the award of other damages that may be authorized under other applicable provisions of the Contract for reasons other than the specific and express basis.

## 3.0 CHARLOTTE BUSINESS INCLUSION ("CBI") PROGRAM

The City has established the following CBI Goal(s) for this Project:

Small/Women Business Enterprise ("SWBE") Goal	8%
Minority Business Enterprise ("MBE") Goal	6%

For information about CBI Program requirements and forms, please review the Section V of the Bid Documents, which contains instructions and forms for the CBI Program. For purposes of CBI reporting

requirements, Contractor will submit documentation requested by the City or be required to comply with reporting into the City's InclusionCLT system or subsequent software platform provided by the City, or in such other manner as may be prescribed, and further require its Subcontractors to provide such documentation and information through the same system.

#### 4.0 SITE TOURS

No Site Tour is planned to be scheduled. Bidders may timely notify CLT if they need or desire to visit the entirety of the site or may elect to visit areas accessible to the public at their convenience.

#### 5.0 GOVERNING ORDER OF BIDDING AND CONTRACT DOCUMENTS

The Contract Documents are intended and designed to be complementary and internally consistent. To the extent there is any inconsistency or lack of clarity, the individual components of the Contract Documents shall be interpreted in the following order of precedence, with those occurring prior controlling over all those occurring later in the following order:

01	Fully Executed Supplementary Agreements
02	Fully Executed Change Orders
03	§IV. F. Federal Requirements
04	Addenda
05	§IV. E. Insurance
06	§IV. D. Special Conditions for Non-Federal Projects
07	§IV. C. Supplemental General Conditions
08	§IV. A. AIA A101-2007 Modified
09	§IV. B. AIA A201-2007 Modified
10	§VI. Airport security Requirements
11	§I. Instructions to Bidders
12	§V. Charlotte Business Inclusion Program
13	§VII. Technical Specifications
14	§VIII. Plans
15	Approved Shop Drawings / Submittals
16	§III. A. Itemized Bid
17	Bid form information
18	Bid Portal information

Later issued Addenda, Change Orders and Supplementary Agreements will take precedence over previous occurring Contract Documents of the same type. Detailed provisions shall have precedence over general provisions unless the above order of precedence indicates otherwise.

#### 6.0 BIDDER REPRESENTATIONS

6.1 Each Bidder by making its Bid represents that it:

- A. Has examined the site of the proposed Work and the Bidding Documents; and
- B. Is satisfied as to the character, quality and quantities of work to be performed, materials to be furnished and as to the requirements of the proposed Contract; and

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- C. Acknowledges that submission of a Bid shall be prima facie evidence that the Bidder has made such examination and is satisfied as to the conditions to be encountered and has adequate time to perform the Work in accordance with the requirements of the Contract Documents.
- D. Warrants and certifies that as of the date of this Bid, Bidder is not identified on the Final Divestment Lists created by the North Carolina State Treasurer pursuant to N.C.G.S. 147 Articles 6e or 6g. The person signing this Bid certifies that he or she is authorized by the Bidder to make the foregoing certification. Bidder further agrees that it will not take any action during the term of this contract that would provide a basis for it to be placed upon the Final Divestment Lists nor will it utilize on this Contract any subcontractor that is identified on the Final Divestment Lists.
- 6.2 Bidders for this Work shall be qualified and licensed for this particular Work by the State of North Carolina prior to time of Bid Opening. North Carolina License type, number and dollar limit must be indicated where requested for the Bidder.
- 6.3 Bidders shall have previous acceptable experience, of current personnel, in the construction of at least two (2) projects in the last ten (10) years that demonstrate the ability to accomplish the Work required by this Contract. If the Bidder is a recently formed entity, then the previous experience of the component entities will be considered. The Owner shall be the sole judge of acceptable previous experience. The Bidder shall have regularly and principally engaged in work of the quality and scope indicated by the Contract Documents, utilizing administrators and supervisors regularly employed by the Bidder for managing the Work, and utilizing workers regularly employed by the Bidder for construction not performed by subcontractors.
- 6.4 In the event that a Bidder is discovered to be ineligible after a Contract is awarded, the ineligible bidder shall indemnify the City against any losses suffered by the City because of the Bidder's ineligibility. The City reserves the right to take any steps it believes appropriate to lessen its actual or potential loss, including termination of the Contract or withholding payments sufficient to cover losses.
- 6.5 Bidder shall abide by the confidentiality requirements set forth in Section 13 of the Instruction to Bidders.
- 6.6 Bidder shall comply with all federal, state and local laws and regulations relating to the preparation and submission of the Bid including, without limitation, E-Verify and shall submit to Owner all required certifications, verifications, permits and licenses.

## **7.0 BID DOCUMENTS**

### **7.1 Documents**

Bidders may obtain complete sets of the Bid Documents as indicated in the Advertisement in the number desired and for the cost stated therein.

Bidders shall use complete sets of Bid Documents in preparing Bids. The Owner assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bid Documents.

The Owner, by making copies of the Bid Documents available on the above terms, does so only for the purpose of obtaining Bids on the Work and does not confer a license or grant for any other use.

Boring logs and other records of subsurface investigations and tests may be available for inspection by Bidders. It is understood and agreed that such subsurface information, whether included in the plans, specifications, or otherwise made available to the Bidder, was obtained and is intended for the Owner's design and estimating purposes only. Bidder expressly waives any right to rely on such information for any

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purpose. Such information has been made available for the convenience of all Bidders. It is further understood and agreed that each bidder is solely responsible for all assumptions, deductions, or conclusions which it may make or obtain from his examinations of the boring logs and other records of subsurface investigations and tests that are furnished by the Owner. Such supplementary data may not be construed as part of the Contract Documents.

## 7.2 Interpretation or Correction of Bid Documents

Bidders shall take no advantage of any apparent error or omission in the Bid Documents. In the event a Bidder discovers any apparent error or omission, ambiguity or inconsistency, the Bidder shall immediately notify the Owner. The Owner will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Bid Documents through the issuance of an Addendum. Any Addendum or clarification supplementing the Bid Documents, the Drawings, and the Specifications, issued prior to the date and time set for the submittal of Bid Proposal shall be made part of the Contract.

Bidders requiring clarification or interpretation of the Bid Documents shall make a written request for clarification and forward the same to the appropriate address below. The Owner will only respond to written questions. Any interpretation, correction or change of the Bid Documents will be made only by an Addendum. Interpretations, corrections or changes of the Bid Documents made in any other manner will not be binding, and Bidders shall not rely upon such interpretations, corrections and changes.

**Written requests for clarification must be submitted electronically through the Bid Portal Q&A board. The deadline for submitting written requests for clarification is on January 27, 2026 at 12:00 PM ET.**

## 7.3 Standards of Quality and Performance, Brand Names and Equivalent Products

Descriptions of materials, products and equipment used in these specifications are to acquaint bidders with the types of products desired and will be used as a standard by which goods and services offered as equivalent will be evaluated. Where the specifications do not include a performance or design standard it is due to the determination that the information is impossible or impractical to provide. In such instances, the specifications include at least three brand names to illustrate the standard by which products offered as equivalent will be evaluated. Where three brand names could not be identified, the specifications include as many as possible. These references are only to denote the quality of product required and do not limit or restrict submission of equivalent products by the bidder. Equivalent products can be submitted for consideration as set forth below.

Materials, products and equipment specified in Bid and Contract documents are used to set forth and convey to bidders the general style, type, function, dimension and quality of product desired by the Owner.

Any request by Contractor for material substitution of "an equal" item must be received by the Architect / Engineer or Owner at least ten (10) days prior to receipt of Bids.

Prior to proposing any substitute item, Contractor shall satisfy itself that the item proposed is, in fact, equal to item originally specified, that such item will fit into the space allocated, that such item affords comparable ease of operation, maintenance and service, that the appearance, longevity and suitability for the climate are comparable, and that by reason of cost savings, reduced construction time, or similar demonstrable benefit, the substitution of such item will be in Owner's interest.

The burden of proof of equality of a proposed substitution for a specified item shall be upon Contractor. Contractor shall support its request with sufficient test data and other means to permit Owner to make a fair and equitable decision on the merits of the proposed substitution. Any item by a manufacturer other than those specified or of brand name or model number or of generic species other than those specified

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will be considered a substitution. Architect / Engineer of Record or Owner may be the sole judge of whether or not the substitution is equal in quality, utility and economy to that specified.

Materials and methods proposed as substitutions for specified items shall be supported by certification of their approval for use by any or all government agencies having jurisdiction over use of the specific material or method.

Substitutions may not be permitted in those instances where the products are designed to match artistic design, specific function or economy of maintenance.

Approval of a substitution shall not relieve Contractor from responsibility for compliance with all requirements of the Contract. Contractor shall bear the expense for any changes in other parts of the Work caused by any substitutions. If Owner rejects Contractor's proposed substitution, Contractor may not make any additional requests for substitution in the same category. **If the proposed substitution is approved, such approval will be set forth in an Addendum.**

If a substitution is installed without prior knowledge and written approval by the Owner, the Contractor will bear all costs associated with removal and replacement of the same at the Owner's request.

#### 7.4 Addenda

Addenda will be available through the Bid Portal. The Bidder shall acknowledge receipt of Addenda by completing the acknowledgment space on the Bid Form.

### 8.0 **BIDDING PROCEDURE**

#### 8.1 Form and Style of Bids

Bids shall consist of the following forms:

- (1) Bid Form
- (2) Certificate of Non-discrimination
- (3) CBI form # 3
- (4) Bid Bond

Changes or additions to the Bid, recalculations or changes in the work bid upon, alternative proposals, or any other modifications of the Bid Form which are not specifically called for in the Bid Documents may result in the Owner's rejection of the Bid as non-responsive to the Invitation to Bid.

The Bidder must execute all pages of the Bid Form, in their entirety. All blanks on the Bid Form shall be filled in.

Unit prices shall include the cost for materials, equipment, tools, labor, sales tax and all incidentals necessary for proper execution and completion of the Work. As the quantities represented are estimates, quantity adjustments will be made as necessary during the project.

In the event there are unit price Bid Items provided in the Bid Form or its attachments, and the "amount" indicated for a unit price Bid Item does not equal the product of the unit price and quantity, the unit price shall govern and the amount will be corrected accordingly. In the event there is more than one Bid Item in the Bid Form or its attachments and the total indicated therein does not agree with the sum of the prices bid for the individual items, the prices bid on the individual items shall govern and the total for the schedule will be corrected accordingly. Where so indicated by the make-up of the Bid Form, sums shall be expressed

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in both words and figures, and in case of discrepancy between the two, the amount written in words shall govern.

All requested, Additive or Deductive Bid Items shall be bid. If no change in the Base Bid is required, enter "No Change."

No person, firm or corporation shall be allowed to submit (or have an interest in) more than one prime Bid for the same work. For example, a company may not submit one bid for itself and one bid for a joint venture in which it will participate. However, a person, firm or corporation that has submitted a sub-bid to a Bidder is not, however, disqualified from submitting a sub-bid or quoting prices to other Bidders or submitting a prime Bid.

## 8.2 Sales and Use Tax

The Owner is NOT exempt from applicable sales or use taxes assessed by North Carolina or other states. However, the North Carolina Department of Revenue does reimburse the Owner for the North Carolina sales or use taxes the Owner pays for certain construction related goods. Therefore, the Owner utilizes the below procedures for such sales tax. The Contractor agrees to follow the procedures set forth below for all sales or use taxes related to the Work and any other work performed pursuant to this Contract.

Eligible Taxes are defined as North Carolina sales or use taxes paid by the Contractor for *buildings, materials, supplies, fixtures and equipment that become a part of or annexed to any building or structure that is owned or leased by the Owner and is being erected, altered or repaired by the Owner* (North Carolina GS 105-164-14(c)).

Non-Eligible Taxes are defined as all other sales or use taxes including those paid to states other than North Carolina, or sales or use taxes paid to North Carolina on purchases or rental of tools, equipment, and disposable supplies, including fuel, used in the Work.

### **Non-Eligible Taxes**

Non-Eligible Taxes **shall** be included in the Bid and **will** be included in the Contract Price.

The Contract Price as shown on the bid form includes full and complete compensation for the Contractor for any and all Non-Eligible Taxes paid by the Contractor in the prosecution of the Work and any other work performed pursuant to this Contract.

### **Eligible Taxes**

Eligible Taxes **shall not** be included in the Bid and will not be included in the Contract Price. Eligible Taxes will be reimbursed separately pursuant to the procedures below.

*Prior to award of the Contract, the Contractor shall provide the Owner with the estimated amount of total Eligible Taxes for the Contract. This estimated amount of total Eligible Taxes will be used solely for the purpose of the Owner's budget planning for the Project and will **not** be included in the Contract Price.*

The Contract Price as shown on the bid form excludes Eligible Taxes. The Contractor shall invoice the Owner for Eligible Taxes as set forth below and the Owner will reimburse the Contractor for those Eligible Taxes pursuant to the procedures below.

In the event the Contractor fails to materially follow the procedures set forth by this Article, and/or fails to properly and timely document its payment of Eligible Taxes, the Owner will not be liable to the Contractor in any way for the payment of such Eligible Taxes.

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In order to receive the reimbursement for Eligible Taxes, the Contractor shall provide a detailed listing of Eligible Taxes on the Sales/Use Tax Statement ("Tax Statement") provided in the Contract Documents. Tax Statements must be submitted with each payment request and shall include invoices documenting the Eligible Taxes related to the underlying purchases made by the Contractor or by the Contractor's subcontractor that are included in that payment request. Tax Statements not submitted with the payment request for the related purchases may be denied and the Contractor agrees that it has waived reimbursement for untimely Tax statements.

Tax Statements must indicate whether such Eligible Taxes was paid by the Contractor or by the Contractor's subcontractor.

If no Eligible Taxes have been paid for the period in which a payment request is being submitted by the Contractor, then the Contractor shall indicate "No Eligible Taxes paid this period" and submit the Tax Statement accordingly.

Tax Statements must be completed and signed by the Contractor/subcontractor's company officer submitting the statement and certified by a Notary Public.

Tax Statement must list in detail the Eligible Taxes paid for each individual invoice paid by the Contractor/subcontractor. No lump sum, running total, or copies of previously reported statements will be accepted.

Tax Statements must show separately the portion of Eligible Taxes that are paid to the State of North Carolina and the applicable North Carolina county, identifying the county accordingly.

Tax Statements will be reviewed and approved by the Owner prior to paying the Eligible Taxes reimbursement. Such approval will not be unreasonably withheld.

### 8.3 E-Verify

Bidder is required to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, unless otherwise exempt. Further, if Bidder utilizes a subcontractor, Bidder shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

### 8.4 Iran and Companies that Boycott Israel Divestment Acts

NC Prohibitions on Contracts with Companies that Invest in Iran or Boycott Israel. Company warrants and certifies that it is not identified on the Final Divestment Lists created by the NC State Treasurer pursuant to N.C.G.S. 147 Articles 6e or 6g. Company further warrants and certifies it will not take any action during the term of this contract that would provide a basis for it to be placed upon the Final Divestment Lists nor will it utilize on this Contract any subcontractor that is identified on the Final Divestment Lists. In signing this Contract, Company further agrees, as an independent obligation, separate and apart from this Contract, to reimburse the City for any and all damages, costs and attorneys' fees incurred by the City in connection with any claim that this Agreement or any part thereof is void due to Company appearing on the Final Divestment Lists.

### 8.5 Bid Security

Each Bid shall be accompanied by a Bid security in the form of, at Bidder's option, cashier's check, certified check, money order or bid bond (in favor of the Owner) in the amount of 5% of the Base Bid amount pledging that the Bidder will after notice of award, enter into a Contract with the Owner on the terms stated



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in its Bid and will furnish bonds as described in Contract Documents, covering the faithful performance of the Contract and the payment of all obligations arising thereunder.

The Bid Bond shall be written on standard Surety Bid Bond form by a firm licensed to provide such forms in the State of North Carolina, and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of his power of attorney.

The OWNER will have the right to retain the Bid security of Bidders to whom an award is being considered until either (a) the Contract has been executed and bonds have been furnished; (b) the specified time has elapsed so that Bids may be withdrawn, or (c) all Bids have been rejected.

#### 8.6 Electronically Executed Bid Bonds Accepted

Until further notice, the City will accept electronically executed bid bonds to satisfy the requirements of N.C.G.S. 143-129(b). In order for electronically executed bid bonds to be valid, a principal and N.C. licensed surety must agree to transact by electronic means. Additionally, the City requires the bidder and surety to use digital signatures that have the following characteristics: (a) each signature is unique to the person using it; (b) the signatures are capable of certification; and (c) each signature is under sole control of the person using it. The notary requirement is waived for bid bonds that are signed electronically.

If a bid will be submitted via an electronic lock box, all bid documents may be submitted electronically, including the bid bond. If a bid will be submitted in hard copy format to a physical bid box, the electronically signed bid bond must still be physically submitted with the bid package.

The bid bond must meet all other statutory criteria for bid bonds and must be submitted in compliance with the Instruction to Bidders. The City reserves the right to reject bid bonds that do not meet the above criteria.

#### 8.7 Submission of Bids

Bidders must submit their Bid through the Bid Portal.

The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids. Oral, telephonic or telegraphic Bids are invalid and will not receive consideration. Bids received after the time and date for receipt of Bids will be returned to Bidder unopened.

No responsibility will be attached to the OWNER for premature opening of or failure to open a Bid not properly identified.

#### 8.8 Modification or Withdrawal of Bid

After opening, each Bid is a firm offer by the Bidder to contract which may not be withdrawn for 120 Calendar Days from bid opening.

Prior to bid opening, any Bid submitted may be withdrawn by notice to the City. For withdrawal to be effective, the City must actually receive the notice prior to bid opening. Such notice shall be in writing over the signature of the Bidder, and it shall be worded so that it does not reveal the amount of the original Bid.

Withdrawn Bids may be modified and resubmitted up to the time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.

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## 9.0 CONSIDERATION OF BIDS

### 9.1 Review of Bids

It is the intent of the Owner to award a Contract to the lowest responsive and responsible Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The Owner shall have the right to waive abnormalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's best interests.

### 9.2 Opening of Bids

The Bids received on time will be opened publicly and will be read aloud. An abstract of the Bids may be made available to Bidders.

### 9.3 Alternates

The Owner shall have the right to request Alternates in addition to the base bid and the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bid Documents. Determination of the low Bidder will be made on the basis of the sum of the Base Bid and any Alternates accepted. When an Alternate is a request for a preferred brand, such request is made pursuant to North Carolina General Statute 133-3. The performance standards that support the preferences are set forth below and were communicated during the pre-bid meeting. The Owner has selected each of the preferred brand Alternates set forth on the bid submission form and in the specifications based on the following:

1. The brand requested provides a cost savings to the Airport; and
2. The brand requested maintains or improves the system/process affected by the preference.

### 9.4 Rejection of Bids

The Owner reserves the right to reject any and or all Bids.

- A. Notwithstanding any of the above, the Owner reserves the right to reject any or all Bids and to waive any informality or technicality. Being the low Bidder, does not mean that the Contract is required to be awarded to said Bidder or that the Contract will be awarded at all.
- B. Bids may be considered non-responsive for reasons such as but not limited to the following:
  1. If the Bid is on a form other than that furnished by the Owner, or if the Owner's form is altered, or if any part of the Bid Form is detached.
  2. If there are unauthorized additions, known substitutions, conditional or alternate pay items, or irregularities of any kind which make the Bid incomplete, indefinite, or otherwise ambiguous.
  3. If the Bid does not contain a unit price for each pay item listed in the Bid, except in the case of authorized alternate pay items, for which the Bidder is not required to furnish a unit price.
  4. If the Bid is not accompanied by the Bid Bond specified by the Owner.
  5. Failure of authorized person to sign Bid Form.
  6. Failure to Submit Necessary Forms per this Instruction to Bidders
- C. A Bidder may be considered disqualified for any of the reasons such as but not limited to the following:
  1. Submitting more than one Bid from the same partnership, firm, or corporation under the same or different name.
  2. Evidence of collusion among Bidders. Bidders participating in such collusion shall be disqualified as Bidders for any future work of the Owner until any such participating Bidder has been reinstated by the Owner as a qualified Bidder.

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## 10.0 PRE-AWARD

### 10.1 Submittals

Within ten days of notice of an intent to award, or as otherwise specified by the Owner, the Bidder shall furnish the following submittals:

- A. The Agreement signed by Contractor; and
- B. All post-bid opening CBI documents required (see Section V – Charlotte Business Inclusion Program); and
- C. Performance and payment bonds, each in an amount equal to the Contract sum; and
- D. Upon Owner's request, subcontract templates the Contractor will use on this Project; and
- E. Certificate(s) of Insurance.

## 11.0 AWARD OF CONTRACT

Contract work may not proceed until the properly executed Agreement and all required submittals are delivered to the Owner in acceptable form and the City has executed the Contract. The time of completion for the Project will not be extended due to delays by the Contractor in executing and delivering required documents.

## 12.0 FINANCIAL

### 12.1 Audit Rights

The Contractor and its subcontractors at any tier shall maintain any and all books, accounts, records, and other writings relating to the performance of the Work under the Contract for a period of three (3) years following final payment. The Owner shall have the right to inspect, examine and make copies of the above documents. The Contractor will fulfill all requests to transmit such records and documents electronically. Such audit rights shall be extended to any duly authorized representatives designated by the Owner. Audits shall take place at times and locations mutually agreed upon by both parties, but not later than one week following the date of a request for an audit.

### 12.2 Owner's Contingency

The City has established an owner's contingency of **TEN PERCENT (10%)** of the Bid amount for this Project. The City is in full control of all owner contingency funds and the Contractor is not entitled to any portion of the owner contingency funds unless and until the City is in agreement with all aspects of any potential work the Contractor may perform that is beyond the original scope (or unit quantity estimates) of this Contract, which shall be determined through the change, dispute and other processes set forth by this Contract. Contractor must obtain the City's written approval in the form of a Contingency Authorization to expend any owner contingency funds.

### 12.3 Subcontractor Payments

Bidders are advised of the subcontractor payment requirements described in North Carolina General Statutes ("NCGS") 22C-2 "Performance by Subcontractor" and 22C-3 "Time of Payment to Subcontractor."

NCGS 22C-2 prohibits as a matter of public policy the insertion of "Pay-When-Paid" clauses in subcontractor agreements. A contractor may not condition subcontractor payments on the contractor's receipt of payments from the owner.

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NCGS 22C-3 requires contractors to pay subcontractors for work performed in accordance with contract requirements within seven days of contractor's receipt of a period or final payment from the owner.

### **13.0 CONFIDENTIALITY REQUIREMENTS**

13.1 Bidder hereby agrees to comply with all confidentiality requirements set forth in this section in connection with this Project.

13.2 Confidential Information

Confidential Information includes any information, not generally known in the relevant trade or industry, obtained from the Owner or its vendors or licensors or which falls within any of the following general categories:

- A. Trade secrets. For purposes of this Contract, trade secrets consist of information of the Owner or any of its suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.
- B. Information of the Owner or its suppliers, contractors or licensors marked "Confidential" or "Proprietary."
- C. Information relating to criminal investigations conducted by the Owner, and records of criminal intelligence information compiled by the Owner.
- D. Information contained in the City/County's personnel files, as defined by N.C. Gen. Stat. 160A-168. This consists of all information gathered and/or maintained by the Owner about employees, except for that information which is a matter of public record under North Carolina law.
- E. Citizen or employee social security numbers collected by the Owner.
- F. Computer security information of the Owner, including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems. This encompasses but is not limited to passwords and security standards, procedures, processes, configurations, software and codes.
- G. Local tax records of the Owner that contains information about a taxpayer's income or receipts.
- H. Any attorney / Owner privileged information disclosed by either party.
- I. Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.
- J. The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.
- K. Building plans of Owner-owned buildings or structures, as well as any detailed security plans.
- L. Billing information of customers compiled and maintained in connection with the Owner providing utility services.

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- M. Other information that is exempt from disclosure under the North Carolina public records laws.

Categories 13.2.(A) through 13.2.(M) above constitute "Highly Restricted Information," as well as Confidential Information. The Company acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by these requirements, and agrees that: (a) all requirements set forth herein applicable to Confidential Information shall apply to Highly Restricted Information; and (b) the Contractor will also comply with any more restrictive instructions or written policies that may be provided by the Owner from time to time to protect the confidentiality of Highly Restricted Information.

### 13.3 Restrictions

The Contractor shall keep the Confidential Information in the strictest confidence, in the manner set forth below:

- A. It shall not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information.
- B. It shall not, directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information of the other to any third party or to any individual employed by the Contractor, other than an employee, agent, subcontractor or vendor of the Owner or Contractor who: (i) has a need to know such Confidential Information, and (ii) has executed a confidentiality agreement incorporating substantially the form of this Section and containing all protections set forth herein.
- C. It shall not use any Confidential Information of the Owner for its own benefit or for the benefit of a third party, except to the extent such use is authorized by Owner as set forth herein, or is for the purpose for which such Confidential Information is being disclosed.
- D. It shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information of the other.
- E. The Contractor shall use its best efforts to enforce the proprietary rights of the Owner and the Owner's vendors, licensors and suppliers (including but not limited to seeking injunctive relief where reasonably necessary) against any person who has possession of or discloses Confidential Information in a manner not permitted by Owner.
- F. In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, the Contractor shall assert these provisions as grounds for refusing the demand and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.
- G. All materials which constitute, reveal or derive from Confidential Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the Owner or destroyed upon satisfaction of the purpose of the disclosure of such information.

### 13.4 Exceptions

The parties agree that the Contractor shall have no obligation with respect to any Confidential Information which the Contractor can establish:

- A. Was already known to the Contractor prior to being disclosed by the disclosing party;
- B. Was or becomes publicly known through no wrongful act of the Contractor;

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- C. Was rightfully obtained by the Contractor from a third party without similar restriction and without breach hereof;
  - D. Was used or disclosed by the Contractor with the prior written authorization of the Owner;
  - E. Was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, the Contractor shall first give to the Owner notice of such requirement or request;
  - F. Was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that the Contractor shall take use its best efforts to obtain an agreement or protective order providing that, to the greatest possible extent possible, the confidentiality requirements set forth herein will be applicable to all disclosures under the court order or subpoena.

#### 13.5 Unintentional Disclosure

Notwithstanding anything contained herein to the contrary, in the event that the Contractor is unintentionally exposed to any Confidential Information of the Owner, the Company agrees that it shall not, directly or indirectly, disclose, divulge, reveal, report or transfer such Confidential Information to any person or entity or use such Confidential Information for any purpose whatsoever.

#### 13.6 Remedies

The Contractor acknowledges that the unauthorized disclosure of the Confidential Information of the Owner will diminish the value of the proprietary interests therein. Accordingly, it is agreed that if the Contractor breaches its obligations hereunder, the Owner shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.

### 14.0 PROJECT MANAGEMENT INFORMATION SYSTEM (PMIS)

Upon Owner's request, Contractor shall use the Owner's web-based Project Management Information System (PMIS) for records retention and management of all Project documentation. Documents, forms, and processes that will be used by the Owner, Owner's representatives and Contractor include but are not limited to: construction drawings (including as-builts), submittals (quality plan, safety plan, schedules, etc.), reports (accident, Inspection, nonconformance, etc.), project photos, transmittals, requests for information, change notices, change requests, change orders, change directives, design change, field change notices, letters, meeting notifications, meeting minutes, and pay applications. If an item is not covered by an existing process, submittals shall be as directed by the Owner or Owner's representative. For shop drawing submittal documents larger than 11x17, submittal shall be as directed by the Owner or Owner's representative.

Owner will provide access, technical service, and training for the PMIS system at no cost to the Contractor.

Contractor shall submit a Submittal Register to the Owner or Owner's representative after the notice of award. The Submittal Register shall include a list of all shop drawings, product information, designs, reports, procedures, management and quality plans, Buy America certifications, test plans, operations and maintenance manuals, and all other documents required to be submitted under the Contract. The Submittal Register shall also include the planned dates for all submittals to be submitted for the entire duration of the Contract. The Contractor shall submit an updated submittal register monthly with any changes to the planned submittal dates.

The Owner or Owner's representative will provide will the Contractor with the format for the Submittal Register. The Contractor should allow a minimum of twenty-one (21) days for review and approval of the Submittal Register following the submittal date, unless otherwise approved by the Owner. The Submittal Register shall include the following information"

- 
- a) Number
  - b) Package
  - c) Specification Section and Sub-Section
  - d) Revision (designate on original submittals as Rev. 00)
  - e) Description
  - f) Category
  - g) Submittal Date

### **III. BID FORM AND SUPPLEMENTS**



**A. ITEMIZED BID****Project Name: T Point Canopy**

Charlotte Douglas International Airport

Project No.: AVIA 26-20

**BASE BID (Base Bid = Unit Price Total)**

The undersigned Bidder, having carefully examined the Bidding and Contract Documents, and having visited the site, and being familiar with all conditions and requirements of the Work, hereby agrees to furnish all material, labor, equipment, permits and services, including all scheduled Allowances, necessary to complete the Work for the above-named project, in accordance with the requirements of the Bidding Documents, for the sum of:

\_\_\_\_\_ Dollars (\$\_\_\_\_\_)

**UNIT PRICES**

Unit prices for line items 2 and 3 are to be paid based on the units of work performed.

Line Item	Spec No.	Description	Qty	Unit	Unit Price	Amount
1	All except 340152 & 340620	T Point Canopy Project	1	LS		
2	340152	Unsuitable Materials	300	CY		
3	340620	Markings	2,500	SF		
Unit Price Total						

**OWNER'S CONTINGENCY (Not included in Base Bid)****OWNER'S CONTINGENCY = 10% of Base Bid**

\_\_\_\_\_ Dollars (\$\_\_\_\_\_)

CONTINGENCY

**BID GUARANTEE**

The undersigned Bidder agrees to execute the Agreement for the above amount and to furnish surety as specified within 10 days after notice of award, if offered within 120 calendar days after receipt of bids, and upon failure to do so agrees to forfeit the attached cash, cashier's check, certified check, U. S. money order, or bid bond, as liquidated damages for such failure, in the amount of:

\_\_\_\_\_ Dollars (\$\_\_\_\_\_)

the stated amount constituting five percent (5%) of the Base Bid amount above.

If the Project costs are greater than \$300,000, NCGS 143-128(d) requires all single prime bidders to identify their subcontractors for the below subdivisions of work. A contractor whose bid is accepted shall not substitute any person as subcontractor in the place of the subcontractor listed in the original bid, except (i) if the listed subcontractor's bid is later determined by the contractor to be non-responsive or the listed subcontractor refuses to enter into a contract for complete performance of the bid work, or (ii) with the approval of the awarding authority for good cause shown by the contractor.

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**List the following subcontractors you are using on this project**

Electrical	_____	License # _____
Mechanical, if applicable	_____	License # _____
Plumbing, if applicable	_____	License # _____
Fire Protection, if applicable	_____	License # _____

**BID SUPPLEMENTS**

Attached to this Bid Form and incorporated herein are the following documents, completed in full by the undersigned:

Certificate of Non-Discrimination  
CBI Form # 3  
Bid Bond

**PLEASE NOTE: FAILURE TO SUBMIT THE REQUIRED BID SUPPLEMENTS MAY RESULT IN REJECTION OF BID.**

**CONTRACTOR'S LICENSE**

The undersigned further states that he is a duly licensed Contractor, for the type of work proposed, in the State of North Carolina, and that all fees, permits, etc., pursuant to the submission of this proposal have been paid in full. LICENSE # \_\_\_\_\_.

**CONFIDENTIALITY REQUIREMENTS**

By signing this bid form, I acknowledge that I have read and understood the confidentiality agreement as stated in the Instruction to Bidders, Section 13.

**B. EXECUTION OF BID****NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN CERTIFICATION**

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the Bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with any bid or contract, that the Bidder has not been convicted of violating North Carolina General Statute 133-24 within the last three years, and that the Bidder intends to do the work with its own bona fide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the Bidder's certification of status under penalty of perjury under the laws of the United States in accordance with the Debarment Certification attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

NC General Statute 133-32 prohibits the offer to, or acceptance by, any City Employee of any gift from anyone with a contract with the City or State, or from any person seeking to do business with the City of Charlotte. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

The undersigned, having carefully examined the site and familiarized himself with the existing conditions on the Project area affecting the cost of work and hereby proposes to furnish all supervision, labor, equipment, materials and services required to construct and complete the Project in accordance with the Bid Documents at and for the total Bid amount.

The undersigned attests that he/she has the legal authority to execute this Bid on behalf of the corporation.

The undersigned acknowledges receipt of the following addenda (initial next to each addendum):

# 1: \_\_\_\_ # 2: \_\_\_\_ # 3: \_\_\_\_ # 4: \_\_\_\_ # 5: \_\_\_\_ # 6: \_\_\_\_ # 7: \_\_\_\_ # 8: \_\_\_\_ # 9: \_\_\_\_

**Type of Bidder:**  
(check 1 box)

- ☐ **Sole Proprietor**   ☐ **Partnership**   ☐ **Corporation**   ☐ **Limited Liability Company**  
☐ **Joint Venture**

*(if joint venture, complete this "Execution of Bid" sheet for each joint venture company and identify the "Name of Joint Venture" on each sheet)*

**Name of Joint Venture:** \_\_\_\_\_

Company Name: \_\_\_\_\_

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

City/State/Zip: \_\_\_\_\_

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

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_

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**C. COMMERCIAL NON-DISCRIMINATION CERTIFICATION**

Project: \_\_\_\_\_

Name of Company (Bidder): \_\_\_\_\_

The undersigned Bidder hereby certifies and agrees that the following information is correct:

1. In preparing its Bid, the Bidder has considered all bids submitted from qualified, potential subcontractors and suppliers, and has not engaged in or condoned discrimination, as defined in Section 2 below.
2. For purposes of this form, discrimination means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of a person's race, color, gender, religion, national origin, ethnicity, age, familial status, sex (including sexual orientation, gender identity and gender expression), veteran status, pregnancy, natural hairstyle or disability, or any otherwise unlawful form of discrimination. Without limiting the foregoing, discrimination also includes retaliating against any person or other entity for reporting any incident of discrimination.
3. Without limiting any other remedies that the City may have for a false certification, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the bid submitted with this certification and terminate any contract awarded based on such bid. It shall also constitute a violation of the City's Commercial Non-Discrimination Ordinance and shall subject the Bidder to any remedies allowed thereunder, including possible disqualification from participating in City contracts or bid processes for up to two years.
4. As a condition of contracting with the City, the Bidder agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of subcontractors in connection with this solicitation process. Failure to maintain or failure to provide such information shall constitute grounds for the City to reject the bid submitted by the Bidder and terminate any contract awarded on such bid. It shall also constitute a violation of the City's Commercial Non-Discrimination Ordinance and shall subject the Bidder to any remedies allowed thereunder.
5. As part of its bid or proposal, the Bidder or Proposer shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against Bidder or Proposer in a legal or administrative proceeding alleging that Bidder or Proposer discriminated against its subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.
6. As a condition of submitting a proposal to the City, the Bidder agrees to comply with the City's Commercial Non-Discrimination Policy as described in Section 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder.

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

Signature of Authorized Official

Title: \_\_\_\_\_

D. **CBI FORM 3: SUBCONTRACTOR/SUPPLIER UTILIZATION COMMITMENT (page 1 of 2)**

This form **MUST** be submitted at the time of Bid Opening.  
Failure to properly complete and submit Form 3 at the time of Bid Opening constitutes grounds for rejection of the Bid.  
*Copy this CBI Form 3 as needed.*

Per Part B, Section 3 and Part C, Section 3 of the CBI Policy, the Subcontractor/Supplier Utilization Commitment (**CBI Form 3**), captures information regarding MBEs, WBEs, SBEs, and other subcontractors and suppliers that the Bidder intends to use on the Contract **FOR ALL TIERS**.

For Construction Contracts under \$500,000, MWSBEs must satisfy the requirements of Part B, Section 3 of the CBI Policy in order to count the work they intend to perform on the contract with its own current workforces towards the established Subcontracting Goal and must list themselves below along with their projected utilization amount.

Bidder Name:			
Project Name:	T Point Canopy		
Project Number:	AVIA 26-20		
Established MBE Goal: 6%	Established SWBE Goal: 8%		

List below all **MBEs, WBEs, and/or SBEs (Non-Hauling Services)** that you intend to use on this Contract. **NOTE: You will only receive credit for SBEs that are currently certified with the City as of the Bid Opening Date. Furthermore, you will only receive credit for MBEs and WBEs that are registered with the City as of Bid Opening Date.**

MBE/WBE/SBE Vendor Name (Non-Hauling Services)	Description of work / materials	NIGP Code	Vendor #	Total Projected Utilization (\$)

For all hauling services on this Contract, list below all MBEs, WBEs, and SBEs that you intend to provide such work and the Total Projected Utilization (\$).

MBE/WBE/SBE Vendor Name (Hauling Services)	Description of work / materials	NIGP Code	Vendor #	Total Projected Utilization (\$)

Total Subcontractor / Supplier Utilization (including MBEs, WBEs, SBEs, and Non-MWSBEs)	\$ _____
Total MBE Utilization	\$ _____
Total WBE Utilization	\$ _____
Total SBE Utilization	\$ _____
Total Bid Amount (including Contingency)	\$ _____
Percent MBE Utilization* (Total MBE Utilization divided by Total Bid Amount)	_____ %
Percent WBE Utilization* (Total WBE Utilization divided by Total Bid Amount)	_____ %

---

**Percent SBE Utilization\*** (Total SBE Utilization *divided* by Total Bid Amount)

\_\_\_\_\_ %

\* The Utilization percentage stated MUST be rounded to (2) decimal places.

**CBI FORM 3: Subcontractor / Supplier Utilization Commitment**

List below all **non-MWSBE (subcontractors and suppliers)** that you intend to use on this Contract

Vendor Name	Description of work / materials	NIGP Commodity Code	Vendor #	Projected Utilization (if known) (\$)

**Letters of Intent submitted upon notice from the City**

Per Part B, Section 3.6 and Part C, Section 2 of the CBI Policy, within three (3) Business Days after receiving a request from the City (or within such longer time as may be communicated by the City in writing), Bidders must submit a separate Letter of Intent (**CBI Form 4**) for each MBE, WBE, and/or SBE listed on **CBI Form 3**. Each Letter of Intent must be executed by each MBE, WBE, and/or SBE and the Bidder. The City shall not count proposed MBE, WBE, and/or SBE utilization for which it has not received a Letter of Intent by this deadline. Per Part B, Section 3.3, a Regular Dealer as defined in the CBI Policy shall only count 60% of all expenditures towards the established Subcontracting Goal(s). In addition, a Hauler, Broker, or Packager shall only count fees or commissions charged for providing a Commercially Useful Function by the MBE, WBE, and/or SBE towards the established Subcontracting Goal(s). The Bidder is still obligated to pay the MBE, WBE, and/or SBE the full amount listed on the Contract with the MBE, WBE, and/or SBE regardless of what percentage is actually counted towards the MBE, WBE, and/or SBE goal.

**Adding subcontractors or suppliers after submitting this form**

Nothing in this certification shall be deemed to preclude you from entering into subcontracting arrangements after submission of this form. However, per Part D of the CBI Policy, you must comply with the following:

- You must maintain the level of MBE, WBE, and/or SBE participation proposed on this **CBI Form 3** (and **CBI Form 3A**, if applicable) throughout the duration of the Contract, except as specifically allowed in Part D.
- If you need to terminate or replace a MBE, WBE, and/or SBE, you must comply with Part D, Section 5.
- If the scope of work on the Contract increases, or if you elect to subcontract any portion of work not identified on this form as being subcontracted, then you must comply with Part D, Section 6.
- A Letter of Intent (**CBI Form 4**) must also be submitted for each MBE, WBE, and/or SBE you add subsequent to contract award.

**All Subcontractors and Suppliers must be registered with the City of Charlotte.**

Pursuant to the City's Vendor Registration Policy, each subcontractor or supplier that you use on this contract must be registered in the City's vendor database. You will need to provide the vendor number for each subcontractor or supplier used on this contract as a condition for receiving payment on this Contract.

**Signature**

Your signature below indicates that the undersigned firm certifies and agrees that:

- (a) It has complied with all provisions of the CBI Policy; and,
- (b) Failure to properly document such compliance in the manner and within the time periods established by the CBI Policy shall constitute grounds for rejection of your bid.

\_\_\_\_\_  
Signature of Authorized Official\_\_\_\_\_  
Printed Name\_\_\_\_\_  
Title\_\_\_\_\_  
Submittal Date

#### **IV. CONTRACT REQUIREMENTS AND FORMS**



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**A. AIA DOCUMENT A101- 2007 – STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND CONTRACTOR (MODIFIED)**

**AGREEMENT** made as of the « » day of « » in the year 2026

**BETWEEN** the Owner:

City of Charlotte  
Charlotte Douglas International Airport  
5501 Josh Birmingham Parkway  
Charlotte, NC 28208  
Telephone: (704) 359-4000

and the Contractor:

« »  
« »  
« »  
« »

for the following Project:

T Point Canopy  
5501 Josh Birmingham Parkway  
Charlotte, NC 28208

The Architect:

The Wilson Group Architects  
Travis Pence  
travis@twgarchitects.com  
PO Box 5510  
Charlotte, NC 28299  
704.331.9747

The Owner and Contractor agree as follows.

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**TABLE OF ARTICLES**

<b>1</b>	<b>THE CONTRACT DOCUMENTS</b>
<b>2</b>	<b>THE WORK OF THIS CONTRACT</b>
<b>3</b>	<b>DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION</b>
<b>4</b>	<b>CONTRACT SUM</b>
<b>5</b>	<b>PAYMENTS</b>
<b>6</b>	<b>DISPUTE RESOLUTION</b>
<b>7</b>	<b>TERMINATION OR SUSPENSION</b>
<b>8</b>	<b>MISCELLANEOUS PROVISIONS</b>
<b>9</b>	<b>ENUMERATION OF CONTRACT DOCUMENTS</b>
<b>10</b>	<b>INSURANCE AND BONDS</b>

**ARTICLE 1 THE CONTRACT DOCUMENTS**

The Contract Documents consist of all documents as set forth in Section 1.17 of the Instructions to Bidders and include, but are not limited to, 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.

**ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

**§ 3.1** The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

The Date of Commencement will be established in a written Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

N/A

**§ 3.2** The Contract Time shall be measured from the date of commencement in the Notice to Proceed.

**§ 3.3** The Contractor shall achieve Substantial Completion of the entire Work not later than **Three Hundred Sixty-Five (365)** calendar days from the date of commencement, or as follows:

« »

**Portion of Work****Substantial Completion Date**

, subject to adjustments of this Contract Time as provided in the Contract Documents.

Liquidated Damages are set in the amount of \$1,000 per Calendar Day for each day or portion thereof that Contractor fails to achieve Substantial Completion.

**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.

Base Bid	\$« »
Owner's Contingency	\$« »
Contract Sum	\$« »

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

N/A

§ 4.3 Unit prices, if any:

Item	Units and Limitations	Price Per Unit (\$0.00)
Unsuitable Materials	CY	\$
Markings	SF	\$

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

Item	Price
N/A	

**ARTICLE 5 PAYMENTS****§ 5.1 PROGRESS PAYMENTS**

§ 5.1.1 Based upon Applications for Payment submitted to the Owner by the Contractor and Certificates for Payment issued by the Owner, 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 INTENTIONALLY DELETED.**

§ 5.1.3 Owner shall make payment of the certified amount to the Contractor not later than the **forty-five (45)** days following receipt of an approved Application for Payment.

§ 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 Owner may require. This schedule, unless objected to by the Owner, 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 REPLACED AND SUPERSEDED BY SUPPLEMENTAL GENERAL CONDITION 7.0.**

**§ 5.1.7 REPLACED AND SUPERSEDED BY SUPPLEMENTAL GENERAL CONDITION 7.0.**

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**§ 5.1.8 REPLACED AND SUPERSEDED BY SUPPLEMENTAL GENERAL CONDITION 7.0.**

**§ 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 except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007, 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.

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

Upon Owner's approval.

**ARTICLE 6 DISPUTE RESOLUTION****§ 6.1 INITIAL DECISION MAKER**

The Owner, as identified below, will serve as Initial Decision Maker pursuant to Section 8.0 of the Supplemental General Conditions.

Aviation Director  
Charlotte Douglas International Airport  
5601 Wilkinson Boulevard  
Charlotte, NC 28208  
Telephone: (704) 359-4000

**§ 6.2 BINDING DISPUTE RESOLUTION**

For any Claim subject to, but not resolved by, mediation pursuant to Section 9.0 of the Supplemental General Conditions, the method of binding dispute resolution shall be as follows:

- ☐ [ ☐ » ] Arbitration pursuant to Section 15.4 of AIA Document A201–2007
- ☒ [ ☒ » ] Litigation in a court of competent jurisdiction
- ☐ [ ☐ » ] Other (*Specify*)

**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 A201–2007.

**§ 7.2** The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007.

**ARTICLE 8 MISCELLANEOUS PROVISIONS**

**§ 8.1** Where reference is made in this Agreement to a provision of AIA Document A201–2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

**§ 8.2** Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

Zero % (0)

**§ 8.3** The Owner's representative:

Aviation Director  
Charlotte Douglas International Airport  
5601 Wilkinson Boulevard  
Charlotte, NC 28208  
Telephone: (704) 359-4000

**§ 8.4** The Contractor's representative:

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

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

**§ 8.6** Other provisions:

N/A

**ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS**

**§ 9.1** The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in their entirety in the Project Manual.

**§ 9.1.1** The Agreement is this executed AIA Document A101–2007, Standard Form of Agreement Between Owner and Contractor.

**§ 9.1.2** The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction.

**§ 9.1.3** The Supplementary and other Conditions of the Contract:

Document	Title
I.	Invitation to Bid
II.	Instruction to Bidders
III.	Bid Form and Supplements
IV.	Contract Requirements and Forms
V.	Small Business Opportunity Program
VI.	Airport Security Requirements

**§ 9.1.4** The Specifications are set forth in the Project Manual.

**§ 9.1.5** The Drawings are set forth in the Project Manual.

**§ 9.1.6** The Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

**§ 9.1.7 INTENTIONALLY DELETED**

**ARTICLE 10 INSURANCE AND BONDS**

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007.

**Type of insurance or bond**

As set forth in the Contract Documents.

**Limit of liability or bond amount (\$0.00)**

**ARTICLE 11 CHARLOTTE BUSINESS INCLUSION (“CBI”) PROGRAM COMMITTED GOAL**

The Contractor has committed to achieve CBI participation in the following percentage of the Contract Sum:

SWBE Goal	8%
MBE Goal	6%

For purposes of CBI reporting requirements, Contractor will submit documentation requested by the City or required to comply with the City’s CBI Program into the InclusionCLT system, or subsequent software platform provided by the City, or in such other manner as may be prescribed, and further require its Subcontractors provide such documentation and information through the same system.

**[SIGNATURES APPEAR ON FOLLOWING PAGE]**

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

**(CONTRACTOR):**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

---

---

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

Federal Tax ID: \_\_\_\_\_

**CITY OF CHARLOTTE:**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

This instrument has been pre-audited in the manner required by the “Local Government Budget and Fiscal Control Act.”

Director of Finance
Date

Date \_\_\_\_\_

---

**CONTRACTOR SURETY COMPANY CONTACTS (IF APPLICABLE):**

**Performance Bond No.**

\_\_\_\_\_

Surety Name:

\_\_\_\_\_

Point of Contact:

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone No.

\_\_\_\_\_

**Labor/Material Bond No.**

\_\_\_\_\_

Surety Name:

\_\_\_\_\_

Point of Contact:

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone No.

\_\_\_\_\_

**Guaranty Bond No.**

\_\_\_\_\_

Surety Name:

\_\_\_\_\_

Point of Contact:

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone No.

\_\_\_\_\_

**PLEASE ATTACH THE FOLLOWING TO THIS SHEET:**

- 1. BONDS**
- 2. A CERTIFIED COPY OF POWER OF ATTORNEY**
- 3. CERTIFICATE OF INSURANCE**
- 4. EXECUTED COPIES OF CBI FORM 4 – LETTERS OF INTENT**



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**B. AIA DOCUMENT A201- 2007 – GENERAL CONDITIONS (MODIFIED)****for the following PROJECT:**

T Point Canopy  
5501 Josh Birmingham Parkway  
Charlotte, NC 28208

**THE OWNER:**

City of Charlotte  
Charlotte Douglas International Airport  
5601 Wilkinson Boulevard  
Charlotte, NC 28208  
Telephone: (704) 359.4000

**THE ARCHITECT:**

The Wilson Group Architects  
Travis Pence  
travis@twgarchitects.com  
PO Box 5510  
Charlotte, NC 28299  
704.331.9747

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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 all documents as set forth in Section 1.17 of the Instructions to Bidders and include, but are not limited to, the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Plans, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a Contingency Transfer of Funds, or (5) a written order for a minor change in the Work issued by the Owner.

**§ 1.1.2 THE CONTRACT**

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

**§ 1.1.3 THE WORK**

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

**§ 1.1.4 THE PROJECT**

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

**§ 1.1.5 THE PLANS**

The Plans 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, plans, specifications, and other similar materials.

**§ 1.1.8 INITIAL DECISION MAKER**

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

**§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS**

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

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

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

**§ 1.3 CAPITALIZATION**

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

**§ 1.4 INTERPRETATION**

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

**§ 1.5 OWNERSHIP AND USE OF PLANS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE**

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

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

**§ 1.5.3** The Contractor shall have available on the work site at all times a current copy of all Plans and Specifications. Contract Documents, including drawings and specifications, are to be issued as a complete package to all subcontractors and trades to ensure complete coordination of the work.

**§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM**

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Contract or the Contract Documents.

**ARTICLE 2 OWNER**

**§ 2.1 GENERAL**

**§ 2.1.1** The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner’s approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative.

**§ 2.1.2 *INTENTIONALLY DELETED.***

**§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER**

**§ 2.2.1 *INTENTIONALLY DELETED.***

**§ 2.2.2** Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements,

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assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

**§ 2.2.3** The Owner may, at its election, furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. If the Owner elects to furnish a survey(s), it is for informational purposes only and the Contractor shall not be entitled to rely on the accuracy of information.

**§ 2.2.4** *INTENTIONALLY DELETED*

**§ 2.2.5** *INTENTIONALLY DELETED*

**§ 2.3 OWNER'S RIGHT TO STOP THE WORK**

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

**§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK**

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

**ARTICLE 3 CONTRACTOR**

**§ 3.1 GENERAL**

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

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

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

**§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR**

**§ 3.2.1** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

**§ 3.2.2** Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These

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obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

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

**§ 3.2.4** If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

### **§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES**

**§ 3.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect.

**§ 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 as if such acts or omissions had been conducted or performed by the Contractor.

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

### **§ 3.4 LABOR AND MATERIALS**

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

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

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

**§ 3.5 WARRANTY**

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

**§ 3.6 TAXES**

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor.

**§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS**

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

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

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

**§ 3.7.4** Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner and Architect will promptly investigate such conditions and, if the Owner and Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner and Architect determine 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 Owner and Architect shall promptly notify the Contractor in writing, stating the reasons. If the Contractor disputes the Owner/Architect's determination or recommendation, the Contractor may proceed as provided in Article 15.

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

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**§ 3.8 ALLOWANCES**

**§ 3.8.1** The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents.

**§ 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 *INTENTIONALLY DELETED*; and
- .3 Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

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

**§ 3.9 SUPERINTENDENT**

**§ 3.9.1** The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

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

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

**§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES**

**§ 3.10.1** The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

**§ 3.10.2** The Contractor shall prepare and submit a submittal schedule to the Owner or Owner's representative after contract award. The submittal schedule shall include a list of all shop drawings, product information, designs, reports, procedures, management and quality plans, test plans, operations and maintenance manuals, and all other documents required to be submitted under the Contract. The submittal schedule shall also include the planned dates for all submittals to be submitted for the entire duration of the Contract. The Contractor shall submit an updated Submittal schedule monthly with any changes to the planned submittal dates.

The Owner or Owner's representative will provide will the Contractor with the format for the submittal schedule. The Contractor should allow a minimum of twenty-one (21) calendar days for review and approval of the submittal schedule following the submittal date, unless otherwise approved by the Owner. The submittal schedule shall include the following information:

- a) Number
- b) Package
- c) Specification Section and Sub-Section
- d) Revision (designate on original submittals as Rev. 00)
- e) Description
- f) Category



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g) Submittal Date

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

**§ 3.10.3** The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

**§ 3.11** *INTENTIONALLY DELETED*

**§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

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

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

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

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

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

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

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

**§ 3.12.8** The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued

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authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

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

**§ 3.12.10** The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

### **§ 3.13 USE OF SITE**

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

### **§ 3.14 CUTTING AND PATCHING**

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

**§ 3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

### **§ 3.15 CLEANING UP**

**§ 3.15.1** The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project.

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

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**§ 3.16 ACCESS TO WORK**

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

**§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS**

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

**§ 3.18 INDEMNIFICATION**

**§ 3.18.1** The Contractor shall indemnify, defend and hold harmless the City and the City's officers, agents and employees from and against any and all claims, damages, liabilities and expenses, including but not limited to attorneys' fees, proximately caused by the Company's breach of contract, or negligent, reckless or intentional acts or omissions constituting a tort under applicable statutes or common law or violations of applicable statutes or regulations, unless that the claims, damages, liabilities and expenses are proximately caused by or resulting from, in whole or in part, the negligence of the City, or the City's officers, agents and employees. To the extent reasonably commercially available, Company shall purchase insurance as required in the Contract, which shall include coverage for the contractual liability described herein. In any case in which Company provides a defense to the City pursuant to this indemnity, the defense will be provided by attorneys reasonably acceptable to the City. This provision shall survive the expiration or early termination of the Contract.

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

**ARTICLE 4 ARCHITECT****§ 4.1 GENERAL**

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

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

**§ 4.1.3** If the employment of the Architect is terminated, the Owner shall employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

**§ 4.2 ADMINISTRATION OF THE CONTRACT**

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

**§ 4.2.2** The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed,

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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. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

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

**§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION**

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

**§ 4.2.5** Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

**§ 4.2.6** The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 4.2.7** The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 4.2.8** The Owner will prepare Change Orders and Construction Change Directives; provided, however, the Architect may authorize minor changes in the Work as provided in Section 7.4.

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

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

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

§ 4.2.13 *INTENTIONALLY DELETED*

§ 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 Plans and Specifications in response to the requests for information.

## **ARTICLE 5 SUBCONTRACTORS**

§ 5.1 *INTENTIONALLY DELETED*

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

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

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

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection..

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

### **§ 5.3 SUBCONTRACTUAL RELATIONS**

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement,

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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. The Contractor shall ensure, and be responsible for, the compliance of all subcontractors, sub-subcontractors, subcontractors at any tier, and suppliers with the requirements of this contract. A failure to do so, or to timely cure such non-compliance, shall be a material breach of the contract.

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

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

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

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

#### **§ 5.4.2 *INTENTIONALLY DELETED***

#### **§ 5.4.3 *INTENTIONALLY DELETED***

### **ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

#### **§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS**

**§ 6.1.1** The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

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

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

#### **§ 6.1.4 *INTENTIONALLY DELETED***

#### **§ 6.2 MUTUAL RESPONSIBILITY**

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

**§ 6.2.2** If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that

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the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

**§ 6.2.3** The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor's delays, improperly timed activities or defective construction.

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

**§ 6.2.5** *INTENTIONALLY DELETED*

**§ 6.3 OWNER'S RIGHT TO CLEAN UP**

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

**ARTICLE 7 CHANGES IN THE WORK**

**§ 7.1 GENERAL**

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

**§ 7.1.2** A Change Order shall be based upon agreement among the Owner and Contractor; a Construction Change Directive may or may not be agreed to by the Contractor.

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

**§ 7.2 CHANGE ORDERS**

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

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

**§ 7.2.2** Change Orders shall be accompanied by a complete itemization of costs, including labor and materials, together with a written explanation of the change and reason for the change. Agreement of any Change Order shall constitute a full payment and final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including but not limited to all direct and indirect costs associated with such change and any and all adjustments to the Contract Sum, the Contract Time, and the construction schedule.

**§ 7.3 CONSTRUCTION CHANGE DIRECTIVES**

**§ 7.3.1** A Construction Change Directive is a written order by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

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

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

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- .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;
  - .4 As provided in Section 7.3.7; or
  - .5 A combination of the above.

#### **§ 7.3.4** *INTENTIONALLY DELETED*

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

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

**§ 7.3.7** If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work;
- .5 Additional costs of supervision and field office personnel directly attributable to the change.
- .6 Overhead and profit as described in Supplementary General Conditions Section 17.0.

**§ 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 Owner will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment. The Owner'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, as modified by Section 8.0 of the Supplemental General Conditions.



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

**§ 7.4 MINOR CHANGES IN THE WORK**

The Owner has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

**ARTICLE 8 TIME**

**§ 8.1** *REPLACED AND SUPERSEDED BY INSTRUCTIONS TO BIDDERS 1.0 DEFINITIONS.*

**§ 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.

**§ 8.2.1.1** The Contract Time shall be the amount of consecutive calendar days stated in the Contract. Liquidated damages will be assessed at the rate stated in the Contract per consecutive calendar day for unauthorized delays beyond the Contract Time. This amount is hereby agreed to by the Contractor by execution of the Contract and other Contract Documents.

**§ 8.2.2** The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

**§ 8.2.3** The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

**§ 8.3 DELAYS AND EXTENSIONS OF TIME**

**§ 8.3.1** *INTENTIONALLY DELETED*

**§ 8.3.2** Claims relating to time shall be made in accordance with applicable provisions of Article 15, as modified by Section 8.0 of the Supplemental General Conditions.

**§ 8.3.3** This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

**ARTICLE 9 PAYMENTS AND COMPLETION**

**§ 9.1 CONTRACT SUM**

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

**§ 9.2 SCHEDULE OF VALUES**

The Contractor shall submit to the Owner, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, upon approval by the Owner, shall be used as a basis for reviewing the Contractor's Applications for Payment.

**§ 9.3 APPLICATIONS FOR PAYMENT**

**§ 9.3.1** 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. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such

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as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

**§ 9.3.1.1** As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

**§ 9.3.1.2** Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

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

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

#### **§ 9.4 CERTIFICATES FOR PAYMENT**

**§ 9.4.1** The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

**§ 9.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### **§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION**

**§ 9.5.1** The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to

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such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

**§ 9.5.3 *INTENTIONALLY DELETED.***

**§ 9.6 PROGRESS PAYMENTS**

**§ 9.6.1 *REPLACED AND SUPERSEDED BY SUPPLEMENTAL GENERAL CONDITION 7.0 PROGRESS PAYMENTS.***

**§ 9.6.2 *REPLACED AND SUPERSEDED BY SUPPLEMENTAL GENERAL CONDITION 7.0 PROGRESS PAYMENTS.***

**§ 9.6.3 *REPLACED AND SUPERSEDED BY SUPPLEMENTAL GENERAL CONDITION 7.0 PROGRESS PAYMENTS.***

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

**§ 9.6.5 *INTENTIONALLY DELETED***

**§ 9.6.6 *INTENTIONALLY DELETED***

**§ 9.6.7 *INTENTIONALLY DELETED***

**§ 9.7 *INTENTIONALLY DELETED***

**§ 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 legally, practically, and reasonably occupy or utilize the Work for its intended use.

**§ 9.8.2** When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

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**§ 9.8.3** Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

**§ 9.8.4** When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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

#### **§ 9.9 PARTIAL OCCUPANCY OR USE**

**§ 9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

**§ 9.9.2** Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

**§ 9.9.3** Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

#### **§ 9.10 FINAL COMPLETION AND FINAL PAYMENT**

**§ 9.10.1** Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

**§ 9.10.2** Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts

withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.

**§ 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 may, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

**§ 9.10.4** The making of final payment shall constitute a waiver of Claims by the Owner except those arising from:

- .1 Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.

**§ 9.10.5** Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## **ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

### **§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS**

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

### **§ 10.2 SAFETY OF PERSONS AND PROPERTY**

**§ 10.2.1** The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

**§ 10.2.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

**§ 10.2.3** The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

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**§ 10.2.4** When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

Contractor shall provide portable fire extinguishers compatible with the hazard of each work area and shall instruct its personnel in their location and use. Wherever welding and burning are conducted, no inflammable materials shall be allowed, and welding activities shall be shielded. The Contractor shall post a Hot Work Permit whenever an open flame shall be utilized for work.

**§ 10.2.5** The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

**§ 10.2.6** The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

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

The Contractor, for the duration of the Contract, shall maintain all excavations, embankments, haul roads, access roads, plant sites, waste disposal areas, borrow areas, and all other work areas free from dust. Industry accepted methods of dust control suitable for the area involved and approved by Owner will be permitted. No separate payment will be made for dust control.

Explosives. Use of explosives will not be allowed on this Contract, without prior written approval by the Owner.

Illumination. All temporary and permanent lighting shall not be installed where it obscures vision by aircraft or airport operations.

Cleaning Up. Contractor shall, at all times, keep its work areas, immediate adjacent areas and travel paths in a neat, clean, and safe condition.

#### **§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY**

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 30 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

#### **§ 10.3 HAZARDOUS MATERIALS**

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

**§ 10.3.2** Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such

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material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

**§ 10.3.3** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, and Subcontractors, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

**§ 10.3.5** The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

**§ 10.3.6** If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance not brought to the site by the Contractor, solely by reason of performing Work as required by the Contract Documents, the Owner shall, to the extent permitted by law, indemnify the Contractor for all cost and expense thereby incurred.

#### **§ 10.4 EMERGENCIES**

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

### **ARTICLE 11 INSURANCE AND BONDS**

#### **§ 11.1 CONTRACTOR'S LIABILITY INSURANCE**

***REPLACED AND SUPERSEDED BY IV. CONTRACT REQUIREMENTS §E. INSURANCE.***

#### **§ 11.2 OWNER'S LIABILITY INSURANCE**

***REPLACED AND SUPERSEDED BY IV. CONTRACT REQUIREMENTS § E. INSURANCE.***

#### **§ 11.3 PROPERTY INSURANCE**

***REPLACED AND SUPERSEDED BY IV. CONTRACT REQUIREMENTS § E. INSURANCE.***

#### **§ 11.4 PERFORMANCE BOND AND PAYMENT BOND**

**§ 11.4.1** The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

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

## **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

### **§ 12.1 UNCOVERING OF WORK**

**§ 12.1.1** If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

**§ 12.1.2** If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

### **§ 12.2 CORRECTION OF WORK**

#### **§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION**

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

#### **§ 12.2.2 AFTER SUBSTANTIAL COMPLETION**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it within thirty (30) days after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within thirty (30) days after receipt of notice of nonconforming work from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

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

**§ 12.2.2.3** The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

**§ 12.2.3** The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

**§ 12.2.4** The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.



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**§ 12.2.5** Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

**§ 12.3 ACCEPTANCE OF NONCONFORMING WORK**

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

**ARTICLE 13 MISCELLANEOUS PROVISIONS**

**§ 13.1 GOVERNING LAW**

The Contract shall be governed by the law of the place where the Project is located.

**§ 13.2 SUCCESSORS AND ASSIGNS**

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

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

**§ 13.3 WRITTEN NOTICE**

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by electronic, registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

**§ 13.4 RIGHTS AND REMEDIES**

**§ 13.4.1** Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

**§ 13.4.2** No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

**§ 13.5 TESTS AND INSPECTIONS**

**§ 13.5.1** Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

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§ 13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.6 *INTENTIONALLY DELETED*

§ 13.7 *REPLACED AND SUPERSEDED BY SUPPLEMENTAL GENERAL CONDITION 8.0 CLAIMS AND DISPUTES.*

## **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 60 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3 *INTENTIONALLY DELETED*; or
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed; provided, however, Contractor shall submit to Owner documentation explaining in detail Contractor's losses including reasonable overhead and profit and reasonable costs incurred by reason of such termination. The Contractor shall not be entitled to lost profit on Work not executed.

§ 14.1.4 *INTENTIONALLY DELETED*

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**§ 14.2 TERMINATION BY THE OWNER FOR CAUSE****§ 14.2.1** The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

**§ 14.2.2** When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

**§ 14.2.3** When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

**§ 14.2.3.1** The Aviation Director shall have the authority to terminate the Contract without additional authorization from the Charlotte City Council.

**§ 14.2.4** If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

**§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE**

**§ 14.3.1** The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

**§ 14.3.2** The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent:

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

**§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE**

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

**§ 14.4.4.1** The Aviation Director shall have the authority to terminate the Contract without additional authorization from the Charlotte City Council.

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

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

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- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

**§ 14.4.3** In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, excluding overhead and profit on the Work not executed.

## **ARTICLE 15 CLAIMS AND DISPUTES**

### **§ 15.1 CLAIMS**

***REPLACED AND SUPERSEDED BY SUPPLEMENTAL GENERAL CONDITION 8.0 CLAIMS AND DISPUTES.***

### **§ 15.2 INITIAL DECISION**

***REPLACED AND SUPERSEDED BY SUPPLEMENTAL GENERAL CONDITION 8.0 CLAIMS AND DISPUTES.***

### **§ 15.3 MEDIATION**

***REPLACED AND SUPERSEDED BY SUPPLEMENTAL GENERAL CONDITION 9.0 MEDIATION.***

### **§ 15.4 ARBITRATION**

***REPLACED AND SUPERSEDED BY SUPPLEMENTAL GENERAL CONDITION 8.0 CLAIMS AND DISPUTES.***

**END OF AIA 201 – 2007**

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**C. SUPPLEMENTAL GENERAL CONDITIONS**

- 1.0 INDEPENDENT CONTRACTOR. Contractor shall act as an independent contractor and not as the agent of Owner in performing the Contract, maintaining complete control over its employees and all of its suppliers and subcontractors. Nothing contained in this Contract or any subcontract awarded by Contractor shall create any contractual relationship between any such supplier or subcontractor and Owner.
- 2.0 LAWS AND REGULATIONS. Contractor and its employees and representatives shall at all times comply with all applicable federal, state and local laws, ordinances, statutes, rules or regulations in effect at the time the Work is performed under this Contract.
- 3.0 PAYMENT AND PERFORMANCE BONDS. Contemporaneously with Contractor's execution of the Contract Documents, Contractor shall supply the Owner with a performance bond and a payment bond, each in an amount equal to the Contract Sum.
- 4.0 MEETINGS. The Contractor shall, as requested by Owner, attend any and all meetings called by Owner to discuss the Work under the Contract. Such meetings shall be conducted and recorded by the Architect with minutes of each meeting distributed to Owner, Contractor and subcontractors. As soon as practicable after award of Contract and prior to commencing any Work, a pre-construction conference will be arranged.
- 5.0 SAFETY. Contractor and its employees and representatives shall at all times comply with and bear all costs in connection with meeting all safety requirements set forth herein shall be borne by the Contractor.
- 5.1 Fire Prevention.
- A. Contractor shall conform to all Federal, State, and local laws and regulations pertaining to burning, fire prevention and control within or adjacent to the project. Necessary precautions to avoid and eliminate fire hazards shall be the responsibility of the Contractor. This includes keeping the Contract Work area clear of all trash at all times.
  - B. All tarpaulins used for any purpose during construction of any work shall be made of material resistant to fire, water and weather and shall bear UL labels. Lighting of any fires on premises is strictly forbidden.
- 5.2 Pumping and Drainage. Surface or sub-surface water or other fluid shall not be permitted to accumulate in excavations or under any structure. Should such conditions develop or be encountered, the water or other fluid shall be controlled and suitably disposed of by means of temporary pumps, piping, drainage lines and ditches, dams or other methods approved by the Owner and other public agencies having jurisdiction.
- 5.3 Dust Control.
- A. The Contractor, for the duration of the Contract, shall maintain all excavations, embankments, haul roads, access roads, plant sites, waste disposal areas, borrow areas, and all other work areas free from dust. Industry-accepted methods of dust control suitable for the area involved and approved by Owner will be permitted. No separate payment will be made for dust control.

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- B. If the Owner determines that dust from the Contract site constitutes a hazard to aircraft operations, the Contractor shall take immediate action to reduce the amount of dust to the satisfaction of the Owner. If the Contractor does not respond immediately, the Owner reserves the right to undertake dust control at Contractor's expense.

5.4 Water Pollution. Contractor shall, at its expense, provide suitable facilities to prevent the introduction of any substances or materials into any stream, river, lake or other body of water, which may pollute the water or constitute substances or materials deleterious to fish and wildlife.

5.5 Hazard Communication.

- A. The Contractor shall be aware of OSHA Federal Standard 29 CFR 1910.1200, HAZARD COMMUNICATION and 29 CFR 1910.1020(C), ACCESS TO EMPLOYEE EXPOSURE AND MEDICAL RECORDS. The Contractor's Safety Program shall address and include all aspects of the preceding OSHA rules, as well as any local or State hazard communication laws.
- B. The Contractor shall furnish to the Owner the MSDS Sheet on any material requiring same, for Owner review and approval prior to said material being delivered to the site. Contractor shall specifically follow all the safety requirements listed on the MSDS Sheet.

5.6 Hazardous Material.

- A. The Contractor shall immediately notify the Owner of any hazardous materials subsequently found on the site and shall not remove same without the permission of Owner.
- B. If the Contractor caused the hazardous material and subsequent contamination, Contractor shall remove said hazardous material and contaminated soils or materials from the site and shall dispose of same in accordance with all Federal, State or Local laws or regulations. Removal of such materials and contamination shall be monitored by a licensed hazardous materials laboratory, and said laboratory shall prepare a written report attesting to the complete removal of the contaminating material and resulting contamination, all to the satisfaction of, and at no cost to, the Owner.

5.7 Erosion Control. Contractor shall conform to all Federal, State, and local laws and regulations pertaining to erosion control within or adjacent to the Project.

6.0 PAYMENT AFFIDAVITS.

To determine whether disparities exist in Owner contracting based on race, gender or other factors, and also to measure the effectiveness of the Owner's Community Business Inclusion Program, the Owner tracks the utilization of first-tier subcontractors and suppliers on certain Owner contracts based on race, gender, small business status, and other factors. For analysis purposes, it is important that the Owner obtain this data not only for minority, female and small business suppliers and subcontractors, but also for other subcontractors and suppliers. As a condition to receiving payment under this Agreement, the Contractor agrees to provide to the Owner with each invoice for payment submitted under this Agreement, a written payment affidavit detailing the amounts paid by the Contractor to first tier subcontractors and suppliers in connection with this Agreement ("Payment Affidavits"). Payment Affidavits shall be in the format specified by the Owner from time to time, and shall include all payments made to first tier subcontractors and suppliers under this Agreement that are not included on a prior Payment Affidavit.

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Failure to provide a properly completed version of each Payment Affidavit required by this Section shall constitute a default under this Agreement, and shall entitle the Owner to: (a) withhold payment of any amounts due the Contractor (whether under this Agreement or otherwise), or (b) exercise any other remedies legally available for breach of this Agreement; or (c) impose any other sanctions permitted under the Owner's Community Business Inclusion Program. In order to have a properly completed Payment Affidavit, each prime contractor and first tier subcontractor identified must be registered in the Owner's Vendor Registration System. The Owner may request on a case-by-case basis that the Contractor require certain suppliers to be registered in the Owner's Vendor Registration System, and may withhold payment of any amounts due the Contractor in the event the Contractor fails to comply with such request.

## 7.0 PROGRESS PAYMENTS.

- 7.1 Sections 5.1.6, 5.1.7, and 5.1.8 of the Standard Form of Agreement (AIA Document 101 2007) have been superseded and replaced by Sections 7.2 through 7.4 below.
- 7.2 The Owner will make progress payments based on the Work progress estimates prepared by the Architect and on the payment requests submitted by the Contractor on a monthly schedule established by the Owner. Progress payments will be made within forty-five (45) calendar days after receipt of a complete and accurate payment request. Progress payments will be approximate only and will be subject to correction in the final estimate and payment.

The Contractor shall submit the following required documents with each payment request:

1. Payment Affidavit (CBI Form 6 provided by the Owner); and
2. Sales/Use Tax Statement (provided by the Owner).
3. Updated Project Schedule detailing the entire Project and shall be in a format that meets the approval of the Owner.

Unless otherwise instructed by Owner, Contractor shall submit all pay requests/applications through the Owner's PMIS.

If any mechanic's or materialman's lien, or any notice or claim of such lien, is filed against the Project for any labor, materials, supplies, or equipment claimed to have been furnished to or incorporated into the Work, or for any other alleged contribution thereto, the Owner shall have the right to retain from payments otherwise due the Contractor, in addition to all other amounts properly withheld under this Article or under other provisions of the Contract, an amount equal to such lien or liens claimed. The Contractor warrants that: (i) all materials are free and clear of all liens, claims, security interests, or encumbrances; and (ii) no materials have been acquired by the Contractor, or by any other person performing Work at the site or furnishing materials for the Work under this Contract, that are subject to an agreement under which an interest in, or encumbrance on, the materials or equipment is retained by the seller or otherwise imposed.

In accordance with NCGS § 22C, the Contractor is required to pay subcontractors for satisfactory performance of their contracts within seven (7) calendar days after the Owner has paid the Contractor for such Work. Additionally, the Contractor shall pay the undisputed portions of subcontractors' invoices no later than ninety (90) calendar days of the date of subcontractor's invoice, independent of any payment by the Owner to the Contractor. If the Contractor withholds any retainage pending final completion of any subcontractor's Work, the Contractor is required to pay the retainage so withheld within seven (7) calendar days after such subcontractor completes his Work satisfactorily, regardless of any payment of retainage by the Owner to the Contractor.

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The Contractor's failure to pay subcontractors as provided herein shall be a material breach for which the Owner may cancel the Contract.

The Contractor shall have a copy of his current progress payment request on the Project job site available for review by subcontractors.

- 7.3 Five percent (5%) of each progress payment shall be retained until the completion of the Work, subject to the terms and conditions of N.C.G.S. 143-134.1.
- 7.4 The Contractor, in paying his subcontractors and suppliers, shall fully and strictly comply with N.C.G.S. 143-134.1, and shall include appropriate provisions in all subcontracts and orders for materials, supplies or equipment requiring all subcontractors and suppliers to fully and strictly comply with N.C.G.S. 143-134.1.

#### 8.0 CLAIMS AND DISPUTES.

- 8.1 Sections 15.1.1 (Definition) and 15.2 (Initial Decision) of the General Conditions (AIA Document A201 2007) are superseded and replaced by Sections 8.2 through 8.10 below.
- 8.2 A claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.
- 8.3 All Claims presented by Contractor shall be in writing and accompanied by the following information and/or documentation:
- A. The basis of the Claim including, without limitation, the specific requirements, clauses or provisions of the Contract which are pertinent to the Claim;
  - B. A full description of the Claim, with a narrative to support the Contractor's position that Claim exceeds or falls outside of the Contract;
  - C. A detailed description of all costs associated with the Claim;
  - D. A detailed description of all requested time extensions associated with the Claim including, if possible, a revised project schedule incorporating the requested time extension; and
  - E. Supporting documentation to substantiate Claim, including schedules, graphs, charts, photographs and any other pertinent documentation or information.
- 8.4 All Claims shall be verified and submitted within a reasonable time not to exceed thirty (30) days after the occurrence of the event giving rise to such Claim or the date the Contractor first recognizes the condition giving rise to the Claim, whichever is later. To the extent additional costs or damages are being incurred for the same condition after it first incurred, every thirty (30) days Contractor shall submit supplemental verified statements of the details and the amounts of such costs or damages, together with documentary evidence of such costs or damages. Failure by



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Contractor to present the Claim within the specified time period and in the manner described in Section 8.2 shall constitute a waiver of the Claim by Contractor.

- 8.5 During its review of the Claim, the Owner may request such further information, documentation, and details as may be reasonably required to determine the facts, contentions, and validity of the Claim. It will be the responsibility of the Contractor to furnish, when requested by the Owner, the additional information. Failure to submit such requested information will be sufficient cause for denying the Claim and will constitute a waiver of any relief to which the Contractor might otherwise be entitled. The verified written claim required by this Article is in addition to any other notice as may be required by other provisions of this Contract.
- 8.6 From the time the Owner receives each Claim in writing, accompanied by complete supporting documentation as required by this Article, the Owner shall have a reasonable time, in no case more than thirty (30) days, to investigate, review, and evaluate such Claim. The reasonable time for the Owner review shall be tolled by any good faith request for further information from the Contractor. When the Owner has completed its investigation, review, and evaluation, it will notify the Contractor in writing of whether the Claim was found to have merit and of any relief to which it has found the Contractor to be entitled. A failure by the Owner to respond within the thirty (30) day response period shall be deemed a denial of the Claim.
- 8.7 Submittal of Claims within the time and in the form stipulated herein shall be a condition precedent to the Contractor's right to any compensation, time extension or other relief based thereon, and the Contractor's failure to submit any Claim as so stipulated shall waive any relief that might otherwise be due with respect to such Claim.
- 8.8 The Contractor promises and agrees that the Contractor will not institute any action at law, suit in equity, or other legal proceeding against the Owner, arising in any manner whatsoever out of or in connection with the Contract or the performance or breach, or alleged breach, hereof, or the warranty hereunder, unless and until the Contractor has first submitted a claim in the manner described herein, requested and received the Owner's final determination with respect to the subject matter of such Claim, and the Claim has been submitted to mediation as set forth in Section 9.0 below. Damages that the Contractor may claim in any action, suit, dispute resolution procedure or other legal proceeding arising under or by reason of this Contract shall not be different from or in excess of the statements and documentation prepared and submitted pursuant to this Section. Failure to commence any action, suit, or other proceeding within the limitations period provided under applicable North Carolina Law will constitute a waiver of any and all damages or other relief that may be due in respect thereof.
- 8.9 Neither the submittal of a Claim hereunder nor the fact that any such Claim or Claims is or are pending shall excuse the Contractor from the full and timely performance of all obligations under the Contract. The Contractor shall continue such performance, unless otherwise instructed by the Owner, notwithstanding any dispute that may arise concerning the compensation due the Contractor or either party's performance of or failure to perform any obligation under the Contract. The Contractor waives any right to cancel the Contract or to suspend or discontinue work that may arise out of any breach, alleged breach, or other act, conduct, or omission by the Owner.
- 8.10 Owner and Contractor shall each pay their own costs for preparation of and presentation of all Claims.

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**9.0     MEDIATION.**

- 9.1     Sections 15.3 (Mediation) and 15.4 (Arbitration) of the General Conditions (AIA Document A201 2007) shall be superseded and replaced by Sections 9.2 through 9.11 below.
- 9.2     The Owner and any party contracting with the Owner or with any first-tier or lower-tier subcontractor for the construction of the Project agree to participate in good faith in any mediation of a dispute subject to this Section and N.C.G.S. 143-128(f1), including without limitation the following parties (if applicable): architect(s), engineer(s), surveyor(s), construction manager, construction manager at risk, prime contractor(s), surety(ies), subcontractor(s), and supplier(s).
- 9.3     Full compliance with this Article is a precondition for any party to initiate any form of litigation concerning the dispute. Unless otherwise directed by the Owner, the Contractor shall continue performance under this Contract while matters in dispute are being resolved. The process set forth by this Article may be foregone upon the mutual written agreement of all parties in interest to the dispute.
- 9.4     The Contractor shall and hereby agrees to include this Article in every subcontract or any other agreement it enters into with any party related to or that will be involved in this Project. Failure to do so will constitute a breach of this Contract, and the Contractor shall indemnify and hold harmless the Owner from and against any and all claims, including without limitation reasonable attorney fees and other costs of litigation, arising in any manner from such breach.
- 9.5     The following disputes are not subject to the provisions of this Article:
1.        A dispute seeking a non-monetary recovery; and
  2.        A dispute seeking a monetary recovery of \$15,000 or less.
- 9.6     A dispute seeking the extension of any time limit set forth in this Contract shall be subject to mediation pursuant to this Article and N.C.G.S. 143-128(f1) only if the damages which would be suffered by the party seeking the extension would exceed \$15,000 if the disputed extension is denied. To the extent that liquidated damages are set forth in such agreement as the measurement of damages for failure by such party to meet such time limit, such liquidated damages shall be the exclusive standard for determining the amount of damages associated with such dispute.
- 9.7     For purposes of this Article, a dispute is limited to the recovery of monetary damages from the same transaction or occurrence against a single party or two or more parties alleged to be liable jointly, severally or in the alternative. Two or more disputes may not be consolidated or otherwise combined without the consent of all parties to such disputes.
- 9.8     Prior to requesting mediation, a party must form a good faith belief that it is entitled under applicable law to recover the monetary amount to be included in the request from one or more of the remaining parties. Such belief must be based on a reasonable and prudent investigation into the dispute that is the subject of the request. The request for mediation must be based on such investigation and may not include any amount or the name of any remaining party, unless supported by such investigation and good faith belief by the party requesting the mediation.
- 9.9     If a party breaches any provision of Paragraph 9.8 above, it shall indemnify and hold harmless all other parties from any costs, including reasonable attorney fees and other costs of litigation, and damages incurred by such other parties that arise from such breach.

- 9.10 All expenses incurred by a party to a dispute in preparing and presenting any claim or defense at the mediation shall be paid by the party. The parties shall share the mediator's fee and any filing fees equally with at least one-third of such fees to be paid by Owner, if Owner is party to the dispute. Agreements reached in mediation shall be enforceable as settlement agreements in any court have jurisdiction thereof.
- 9.11 The mediation shall be held in the Charlotte, Mecklenburg County, North Carolina, unless otherwise agreed by all parties in writing. The provisions of this Section are subject to any other provision of this Contract concerning the submission, documentation and/or proof of any claim or dispute. Such other provisions shall apply in full force and shall be satisfied as a condition precedent to mediation pursuant to this Article. The parties understand and agree that mediation in accordance with this Article shall be a condition precedent to institution of any legal or equitable proceeding seeking monetary recovery based on any dispute that is subject to mediation pursuant to this Article.

10.0 PROJECT SIGNS, PUBLICITY AND ADVERTISING.

With the exception of the right reserved by the Owner to erect a sign in connection with the project and unless otherwise provided in the Contract Documents, the Contractor shall not display or permit to be displayed on or about the project, any sign, trademark, poster or other advertising device, without prior written approval of Owner. Contractor shall not make any announcement or release any information concerning this Contract or the project or any part thereof to any member of the public, press or any official body, unless prior written consent is obtained from Owner.

11.0 SUCCESSORS, ASSIGNEES AND ASSIGNMENT.

Contractor shall not assign, transfer, convey or otherwise dispose of the Contract or its right, title or interest in or to the same or any part thereof, without previous written consent of the Owner and concurred to by the sureties.

12.0 AUDIT RIGHTS.

The Contractor and its subcontractors at any tier shall maintain any and all books, accounts, records, and other writings relating to the performance of the Work under the Contract for a period of three (3) years following final payment. The Owner shall have the right to inspect, examine and make copies of the above documents. The Contractor will fulfill all requests to transmit such records and documents electronically. Such audit rights shall be extended to any duly authorized representatives designated by the Owner. Audits shall take place at times and locations mutually agreed upon by both parties, but not later than one week following the date of a request for an audit.

13.0 COMPLIANCE WITH IMMIGRATION LAWS.

Contractor and its subcontractors shall not place any employee on Owner's worksite without first ensuring the employee's authorization to work.

Contract agrees and warrants that:

- A. it maintains and follows an established policy to verify employment eligibility verification; and

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- B. it has verified the identity and employment eligibility of all employees; and
  - C. it has established internal safeguards and reporting policies to encourage employees to report suspected violations of immigration policies to senior management; and
  - D. it has no knowledge of any fact that would render an employee or subcontractor ineligible to legally work in the U.S.; and
  - E. it has complied with the Immigration Reform and Control Act of 1986 ("IRCA") at all times; and
  - F. it has properly maintained all records required by federal immigration authorities, including the Form I-9s; and
  - G. it has responded in a timely fashion to any inspection request from and has cooperated fully with inquiries, inspections or investigations by federal immigration officials.

#### 14.0 NON-DISCRIMINATION PROVISION FOR ALL CITY CONTRACTS.

Contractor agrees to comply with the Non-Discrimination Policy set forth in Chapter 2, Article V of the Charlotte City Code, which is available for review at <http://library.municode.com/index.aspx?clientId=19970> and incorporated herein by reference. Contractor consents to be bound by the award of any arbitration conducted thereunder.

#### 15.0 COMPLIANCE WITH E-VERIFY

Contractor shall: (i) comply with the E-Verify requirements set forth in Article 2 of Chapter 64 of the North Carolina General Statutes (the "E-Verify Requirements"); and (ii) cause each subcontractor under this Contract to comply with such E-Verify Requirements as well. Contractor will indemnify and save harmless the Owner from all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, interest charges and other liabilities (including settlement amounts) incurred on account of any failure by Contractor or any subcontractor to comply with the E-Verify Requirements.

#### 16.0. EXTENSION OF CONTRACT TIME DUE TO WEATHER DELAY

- A. EXTENSIONS OF CONTRACT TIME. An extension of time based on weather may be granted only for the number of Weather Delay Days in excess of the number of days included in the B. STANDARD BASELINE FOR AVERAGE CLIMATIC RANGE as provided for in this section.
- B. STANDARD BASELINE FOR AVERAGE CLIMATIC RANGE:
  - i. The Owner has reviewed weather data available from the National Oceanic and Atmospheric Administration (NOAA) and determined a Standard Baseline of average climatic range for the Charlotte Douglas International Airport (CLT) – WSO.
  - ii. Standard Baseline shall be regarded as the normal and anticipatory number of calendar days for each month during which construction activity shall be expected to be prevented and suspended by cause of precipitation in excess of 0.25-inch liquid measure. Suspension of construction activity for the number of days each month as listed in the Standard Baseline is included in the Work and is not eligible for extension of the Contract Time.
  - iii. Standard Baseline (based upon precipitation in excess of 0.25-inch liquid measure) established for this contract is as follows:

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Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
5	5	6	5	5	5	5	5	4	4	4	5

C. WEATHER DAYS. A Weather Day may be counted as follows:

- i. For the purposes of this provision, a Weather Day is defined as a twenty-four (24) hour period, between the hours of 12:00am and 11:59pm and identified in the Contractor's CPM Schedule as a Working Day, where precipitation equal to or in excess of 0.25-inch liquid measure, one (1) Weather Day is counted.

D. The Contractor will compile monthly weather station data from the National Oceanic and Atmospheric Administration (NOAA) for Charlotte Douglas International Airport (CLT) – WSO, which shall be used as the basis to substantiate Contractor's requests for Weather Days.

E. Throughout the duration of the Contract, the Contractor and Owner shall reconcile impacts due to weather on a monthly basis. The Contractor shall submit, monthly, with the pay application and schedule update an itemized list of; days impacted by weather, scheduled activity that was impacted, the impact which caused the delay and any supporting documentation including daily data from the above link.

#### 17.0 ADJUSTMENT TO CONTRACT AMOUNT FOR COSTS AND MARK UP FOR OVERHEAD AND PROFIT

All pricing submitted by the Contractor to perform an item of work not provided for in the awarded contract ("Additional Work"), shall contain a complete itemized breakdown of costs for all work to be performed by the Contractor or subcontractors, including labor (direct and burden), equipment, materials, and markup for overhead and profit. The overhead and profit percentage may be negotiated based on the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Mark Up for Overhead and Profit for Additional Work. Contractor or subcontractor of any tier who actually performs the work shall be entitled to a markup in accordance with the following schedule of percentages:

1. Labor Burden. An additive payment shall not exceed 35.0% of the Contractor's wages paid for labor and foremen will be added to the total base wages paid to the Contractor. This payment will be full compensation for all costs including overhead, benefits, and all other costs associated with labor for the work. The labor burden rates will include costs associated with the employee's actual base wages benefits, including Federal Insurance Contributions Act (FICA), unemployment contributions, Social Security and Medicare taxes and company fringe benefits. Company fringe benefits are the actual costs paid to, or on behalf of, workers by reason of health and welfare benefits, pension fund benefits, or other benefits, when such amounts are required by prevailing wage laws generally applicable to the classes of labor employed on the work.
2. An additive payment shall not exceed 12.5% of the total additional direct cost for work performed by the Contractor's own forces will be paid to the Contractor for overhead and profit. This payment will be full compensation for all costs including but not limited to administrative costs of the Contractor in connection with the work, home office and field overhead, burdens and profit associated with the work.

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3. An additive payment shall not exceed 7.5% of the total additional direct cost for work performed by a subcontractor's forces will be paid to the Contractor overhead and profit. This payment will be full compensation for all costs including but not limited to administrative costs of the Contractor in connection with the work, home office and field overhead, burdens and profit associated with the subcontracted work. No additional additives will be allowed.
  4. An additive payment shall not exceed 12.5% of the total additional direct cost for work performed by a subcontractor's own forces will be paid to the subcontractor for overhead and profit. This payment will be full compensation for all costs including but not limited to administrative costs of the subcontractor in connection with the work, home office and field overhead, burdens and profit associated with the work.
  5. An additive payment shall not exceed 7.5% of the total additional direct cost for work performed by a sub-subcontractor's forces will be paid to the subcontractor overhead and profit. This payment will be full compensation for all costs including but not limited to administrative costs of the subcontractor in connection with the work, home office and field overhead, burdens and profit associated with the subcontracted work. No additional additives will be allowed.
  6. An Owner credit shall not be less than 10% of the total cost for deleted work that would have been performed by the Contractor's own forces will be credited to the Owner by the Contractor as the allowance for overhead and profit.
  7. An Owner credit shall not be less than 5% of the total cost for deleted work that would have been performed by the subcontractor's own forces will be credited to the Owner by the Contractor as the allowance for overhead and profit.
  8. An Owner credit shall not be less than 10% of the total cost for deleted work that would have been performed by the subcontractor's own forces or the subcontractor's subcontractor will be credited to the Owner by the subcontractor as the allowance for overhead and profit.

For property damage and liability insurance premiums and bond premiums on the work, the Contractor will receive the actual cost. The Contractor will furnish satisfactory evidence to the Owner of the rate or rates paid for such insurance and bond.

## 18.0 PROJECT CONTROLS REQUIREMENTS

### 18.1 DEFINITIONS

**Activity.** A component of work to be accomplished in a set period of time to achieve the overall project goals.

**Critical Path.** The sequence of schedule activities that determines the longest path of activities and the duration of the project. The critical path is defined as a sequence of activities that must be completed "on time" to ensure the project is finished by the scheduled completion date. In the absence of a schedule modification, delaying an activity on the Critical Path will delay the completion date of the project.

**Data Date.** The date the schedule was last updated, or the status was revised with actual work performed. Project schedules are updated on a regular periodic basis during the project once the baseline schedule is accepted.

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**Earned Value.** The value of work performed expressed in terms of the approved budget assigned to that work for a schedule activity or work breakdown structure component. The Earned Value is also referred to as the budgeted cost of work performed (BCWP).

**Four (4) Week Lookahead Schedule.** A detailed 4 week lookahead schedule to include the current week and the three (3) following weeks of activities taken from the Project Schedule. The intent of this plan shall be to keep all parties informed of upcoming activities, identify potential work conflicts, and identify critical activities that are required to be finished in a planned, sequenced, and timely manner. The plan shall include aspects of Project Administration, Procurement/Delivery, Construction, and Startup / Commissioning activities. The plan should also include equipment deliveries, materials needed, permits, work plans, hold points, contract interfaces and other appropriate activities required for a complete plan.

**Intermediate Milestones.** Used to mark the completion of a phase, completion of a major scope item, and other key dates as defined by the Construction Documents. This also include key dates of importance to the Contractor.

**Owner Identified Milestones.** Key Dates for Operations, Security, and Other Coordination Efforts Which Will Be Provided By CDIA.

**Project Baseline Schedule / Full Schedule.** Schedule view that is cost loaded, logically tied, fully integrated, and shows the full detail of all activities and deliverables required to achieve the scope of work. It is considered to be the working level detail to actively plan, monitor, and control the project.

**Recovery Schedule.** A schedule developed by the Contractor at the direction of the Owner when Critical Path activities set forth in the Baseline Schedule, Intermediate Milestones, or Owner Identified Milestones are forecast to be delayed by 15 or more calendar days.

**Risk Management.** The identification, evaluation, and prioritization of risks on the project. Risk include but are not limited to safety and occupational risk, financial risk, project schedule risk, and contractual risk.

**Schedule Adherence (SA).** A comparison of planned to actual activities starts and finishes for the month that evaluates the efficiency of the schedule.

**Work Breakdown Structure (WBS).** The Work Breakdown Structure (WBS) is a tiered breakdown that defines the total scope of work to be performed by the Contractor to achieve the overall project objectives and establishes the required project deliverables.

## 18.2 PROJECT CONTROLS STAFFING.

Contractor shall provide project controls staff throughout the duration of the project that shall be responsible for all Contractor project control activities. Project Control activities include scheduling, cost reporting, risk analysis, procurement status reporting, earned value reporting, contract administration, invoice reporting, change order management, and any additional activities that are determined by Owner to be required. Contractor's project controls staff shall participate in weekly and monthly meetings or any additional meetings as required by the Owner.

## 18.3 PROJECT CONTROLS GENERAL REQUIREMENTS.

**Construction Daily Report.** Contractor shall record its daily construction activities in a construction daily report. Construction daily reports shall provide the details of the day-to-day progress on-site and describe the performance, progress, and productivity of a project. Field notes in the construction daily report shall include

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work in progress or work completed, site and weather conditions, any safety incidents, and should document the Contractor's/ Subcontractor's labor force on the project. Construction daily reports must be recorded and maintained in a digitalized format and any hand-written data must be transferred to a digitalized format.

Contractor shall submit their construction daily reports to the Owner on a weekly basis via the PMIS.

**Safety Statistics Report.** Contractor shall prepare and provide a Safety Statistics Report to the Owner on a weekly basis during the Contractor's weekly progress meetings and monthly in its Monthly Progress Report. The Safety Statistics Report shall include first aides, safety incidents, near misses, lost time accidents, work hours and any OSHA recordable events. Templates of the Safety Statistics Reports are available upon request and will be provided to the successful low bidder.

**Monthly Progress Reports.** Contractor shall submit Monthly Progress Reports to the Owner during the life cycle of the project. Monthly Progress Reports shall include the project scope, monthly summary, safety statistics report, design revisions, change order log, detailed construction progress for the current month, forecasted construction activities for the next month, quality summary & non-conformance log, environmental report, cash flow plan, cash flow summary, pay application summary, summary of CBI/MWSBE, risk register, milestone variance report, schedule change log, weather tracking log, critical path schedule, full schedule, schedule adherence report, and staffing plan of general conditions. Templates of the Monthly Progress Reports are available upon request and will be provided to the successful low bidder.

**Risk Register.** Contractor shall develop, operate, and maintain the risk register for the duration of the project. Contractor shall coordinate the risk to minimize, monitor, and control project impacts and to maximize project opportunities. Contractor shall chair and lead regularly scheduled risk management workshops with the project team. Risk management workshops shall be performed on a monthly or quarterly basis as determined by the Owner. Templates of the Risk Register are available upon request and will be provided to the successful low bidder.

**Quality Control Program.** Contractor shall establish, provide, and maintain an effective Quality Control Program for the duration of the project. Administration of the QA/QC Program shall be accomplished through the PMIS process and the Contractor shall utilize the process to record, address, update and reconcile its corrective actions for any non-compliances with the Construction Documents as well as non-conformances related to the Special Inspections Program. Contractor shall provide the Quality Control Program to the Owner for review prior to the commencement of any work on the project.

**Environmental Report.** Contractor shall provide an environmental report documenting the number of environmental inspections performed, non-conformances, and corrective actions. An example of the environmental items would be erosion control, stored chemicals on site, and stormwater drainage.

**Staffing Plan of General Conditions.** Contractor shall provide a staffing plan of their General Conditions for the entire project. The staffing plan should include the Contractor's planned, actual, and forecasted manpower over the total life of the project.

#### 18.4 CONTRACTOR PROJECT CONTROLS DELIVERABLES.

The Contractor shall provide the Owner with the deliverables identified in the Project Controls General Requirements (the "Project Controls Deliverables") within the time periods specified in the Project Controls Deliverable Matrix set out below. Each deliverable shows the associated requirements and the frequency of updates and distribution. Project Controls Deliverables templates are available through the PMIS. Contractor shall notify the Owner of any delay in providing a required Project Controls Deliverable in accordance with the Project Controls Deliverable Matrix. In the event any Project Controls Deliverable will be delayed, the



Contractor shall provide a forecasted completion date.

### 18.5 CONTRACTOR PROJECT CONTROLS DELIVERABLES MATRIX.

PROJECT CONTROLS DELIVERABLES MATRIX				
Description	Template Name	Initial Submission for Acceptance	Owner Acceptance Timeline	Update / Distribution
<b>General</b>				
Baseline Schedule (corresponding native, i.e. .mpp or .xer file & PDF)	n/a	Prior to the submittal of Pay Application #2	2 weeks after submitted	Until Baseline Schedule is Accepted/As Necessary for Revisions
Baseline Schedule - Critical Path (PDF)	n/a	Prior to the submittal of Pay Application #2	2 weeks after submitted	Until Baseline Schedule is Accepted/As Necessary for Revisions
Baseline Schedule Acceptance Form	BL Acceptance	Prior to the submittal of Pay Application #2	2 weeks after submitted	7 Days after approved change
Risk Register	Risk Register	Within 30 Days after Effective Date of Contract Approval	2 weeks after submitted	Monthly (2)
Staffing Plan of General Conditions (Excel & PDF)	Staffing Plan	Within 30 Days after Effective Date of Contract Approval	2 weeks after submitted	Monthly (2)
Monthly Progress Report	n/a	Within 30 Days after Effective Date of Contract Approval	2 weeks after submitted	Monthly (2)
Weather Tracking Log	Weather Tracking Log	Within 30 Days after Effective Date of Contract Approval	2 weeks after submitted	Monthly (2)
Procurement Status Report	Procurement Status Report	Within 30 Days after Effective Date of Contract Approval	2 weeks after submitted	Weekly (1)
Full Schedule (XER & PDF)	n/a	Prior to first Pay Application Submission	2 weeks after submitted	Monthly (2)
Critical Path Schedule (PDF)	n/a	Prior to first Pay Application Submission	2 weeks after submitted	Monthly (2)
Milestone Variance Report	Milestone Variance	Prior to first Pay Application Submission	2 weeks after submitted	Monthly (2)
Schedule Change Log	Sch Change Log	Prior to first Pay Application Submission	2 weeks after submitted	Monthly (2)
Schedule Adherence Report	Sch Adherence	Prior to first Pay Application Submission	2 weeks after submitted	Monthly (2)
4 Week Lookahead Schedule (P6 PDF & Contractor Excel)	4 Week	2 weeks prior to Preconstruction Meeting	2 weeks after submitted	Weekly (1) and Monthly (2)
2 Week Lookahead Schedule (Contractor Excel)	n/a	First Week on Site	2 weeks after submitted	Weekly (1)
Contractor Daily Report	Daily Report	2 weeks prior to Preconstruction Meeting	2 weeks after submitted	Daily
Safety Statistics Report	Safety Statistics Weekly Safety Statistics Monthly	2 weeks prior to Preconstruction Meeting	2 weeks after submitted	Weekly (1) and Monthly (2)
Environmental Report	Environmental	First Week on Site	First Week on Site	Weekly (1) and Monthly (2)
QA/QC Non-Conformance Log	QA_QC Non-Conformance Log	First Week on Site	First Week on Site	Weekly (1) and Monthly (2)
Other Reports reasonably requested by Owner	n/a	As Requested	As Requested	As Requested
<b>Financial</b>				
Schedule of Values	n/a	Within 30 Days after Effective Date of Contract Approval	2 weeks after submitted	Monthly
Cash Flow Plan	Cash Flow	Prior to first Pay Application Submission	2 weeks after submitted	Monthly (2)
Summary of DBE/CBI/MWSBE Tracking	DBE/CBI	Prior to first Pay Application Submission	2 weeks after submitted	Monthly (2)
Change Order Log	CO Log	First Week on Site	2 weeks after submitted	Weekly (1) and Monthly (2)
Pay Application - shall include Monthly Progress Schedule Update, Monthly Progress Report, Updated Schedule of Values, Updated Cash Flow Plan	Pay App Summary CBI_MWSBE Tracking DBE Tracking	On or before the tenth (10) working day		per contract
(1) - Items included in Weekly Progress Report due prior to the Weekly Progress Meeting (2) - Items included in Monthly Progress Report to be discussed in the Monthly Progress Meeting				

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#### 18.6 PROGRESS MEETINGS.

Contractor shall attend and participate in regular Progress Meetings with the Owner throughout the project, which shall occur weekly and monthly (or upon other more frequent intervals as Owner may reasonably request). The purpose of the Progress Meetings will be to discuss the status of the work, including but not limited to project progress, productivity, cost performance, anticipated problems, and the resolution of any problems ("Progress Meetings"). The Progress Meetings shall also include, at the request of the Owner, consultants, and any additional persons identified by the Owner. Contractor shall prepare and deliver to Owner within seven (7) days after each meeting written minutes of the meeting; provided, however, that the publication or distribution of such minutes shall not constitute a permitted basis for providing notice, or otherwise asserting claims, under this Contract by any Party. No implication whatsoever shall be drawn as a consequence of or a failure by Owner to comment on or object to, or the approval by Owner of, any minutes prepared or distributed by Contractor. Unless otherwise mutually agreed, Contractor's Site Representative shall attend all Progress Meetings after Contractor mobilizes to the Site.

In addition to the above Progress Meetings, Contractor shall hold regularly scheduled (but not less frequently than weekly during construction) status or scheduled meetings with appropriate personnel in particular discipline, Project Managers, Superintendents, and shall include Subcontractors. The Owner shall have the right, but not the obligation, to attend and participate in such Weekly Progress Meetings and schedule review. The 4 Week Lookahead schedule, including format, and the agenda for the plan and schedule review shall be accepted by Owner.

The Owner reserves the right to attend regularly scheduled subcontractor coordination meetings as an observer. These meetings assist the Owners representatives in the overall CLT program and project's coordination.

#### 18.7 CPM SCHEDULE DEVELOPMENT AND REQUIREMENTS

The Contractor shall prepare and submit for the Owner's review a proposed baseline schedule that is a fixed project timeline used for tracking progress for the entire duration of the project (the "Baseline Schedule"). The Baseline Schedule shall include critical path activities, contract milestones, and budgetary compliance as described below. After submittal, the City Project Manager shall schedule a meeting with the Contractor to review the proposed Baseline Schedule and identify any changes or corrections. The Contractor shall make any necessary adjustments to address all review comments and resubmit the Baseline Schedule for the City Project Manager's approval. Approval of the Baseline Schedule by the Owner does not revise the Contract Documents. Contractor shall not submit and Owner will not accept submission of Pay Application #2 prior to the approval of the Baseline Schedule, such approval shall not be unreasonably withheld.

The Baseline Schedule shall contain the following deliverables:

- A. A Gantt Chart, developed using software as directed by the Owner (Microsoft Project or Primavera P6 preferred) shall be provided as a .pdf and the corresponding native (i.e. .mpp or .xer) file, with major work activities and milestone dates clearly labeled. The Gantt Chart should also include the data date, bar activity names, filters, and the legend for the status bars.
  - i. For purposes of preparing the Baseline Schedule, major work activities are defined as components comprising more than 5% of the total project cost or occupying more than 10% of total contract time and shall include, but are not limited to, the following as applicable:
    - a. Demolition
    - b. Site Utilities
    - c. Grading
    - d. Foundations

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- e. Structure
  - f. Façade
  - g. Roofing
  - h. Mechanical, Electrical, Plumbing (MEP) Rough-In
  - i. Finishes
  - j. Concession Turn Over
  - k. Technology and Data Infrastructure, i.e. installation, testing, and acceptance
  - l. Signage
  - m. Commissioning, Furniture, Fixtures, and Equipment (FF&E)
  - n. Activation
  - ii. For purposes of preparing the Baseline Schedule, major milestones are derived from the project construction phasing and shall include, but are not limited to, the following:
    - a. Notice to Proceed (NTP)
    - b. Start of construction, if different from the NTP date
    - c. Intermediate completion dates or times
    - d. Submittal and review activities
    - e. Procurement activities
    - f. Seasonal limitation/observation periods/moratoriums
    - g. Traffic shifts, vehicular and/or pedestrian
    - h. Security shifts
    - i. Authorities Having Jurisdiction (AHJ) Inspections and Occupancy
    - j. Network Activation
    - k. Beginning and end of each work area
    - l. Substantial Completion date
    - m. Punchlist and closeout
    - n. Contract Completion date

B. A cash curve corresponding to the milestones and work activities established in the Baseline Schedule.

C. A written narrative that explains the sequence of work, the controlling operations, intermediate completion dates, milestones, project phasing, anticipated work schedule and estimated resources. In addition, explain how permit requirements, submittal tracking and coordination with subcontractors, utility companies and other entities will be met or performed.

Submission of an incomplete, impractical, or otherwise defective Baseline Schedule by the Contractor may delay Owner's issuance of Notice to Proceed. All subsequent monthly schedule updates will be measured against the accepted Baseline Schedule. Pay Application #2, and all subsequent pay applications, may not be submitted and will not be accepted prior to approval and acceptance of a Baseline Schedule. The approved Baseline Schedule should not be changed throughout the life of the project without Owner's prior written approval.

Until Substantial Completion is achieved, the Contractor shall update and submit the following deliverables no later than the 5<sup>th</sup> of each month:

- A. A Gantt Chart with the current status bars with the Baseline Schedule assigned to show the variances from the Baseline Schedule, submitted as both a .pdf and native (i.e. .mpp or .xer) file. Progress will be measured through the last day of the previous month. The reporting data date will be the first day of the current month.

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- B. A cash curve showing the planned cashflow from the Baseline Schedule compared to the earned actuals from the Contractor's payment applications.
  - C. A written narrative that explains any changes to the previous month's schedule critical path, activity relationships or activity durations.

#### 19.0 THIRD PARTY COORDINATION

Contractor shall not communicate directly with airlines, concession or retail contacts, any other tenant or operator in accordance with required notices without prior permission from the Owner. The Contractor shall ensure that a Resident Project Representative (RPR) is notified for all AHJ inspections, punch walks, and acceptance walkthroughs conducted by the Owner, Architect/Engineer, or other external representatives.

#### 20.0 TEMPORARY FACILITIES

Contractor shall furnish, install and maintain temporary facilities required for construction, including temporary utilities as needed.

**Requirements of Regulatory Agencies.** Contractor shall comply with Federal, State, and Local laws, codes and regulations including without limitation utility company requirements and the National Electric Code as adopted by North Carolina.

**Temporary Electricity and Lighting.** Contractor shall provide temporary electrical service required for power and lighting, and pay all costs for service and for power used.

**Temporary Water.** Contractor shall provide water for construction purposes and pay all costs for installation, maintenance and removal, and service charges for water used. The Contractor shall make arrangements for securing and providing necessary water as required for the performance of the work.

**Temporary Sanitary Facilities.** Contractor shall provide sanitary facilities for their work force in compliance with laws and regulations, and shall service, clean and maintain the facilities as required.

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**D. SPECIAL CONDITIONS FOR NON-FEDERAL PROJECTS**

**1.0 GENERAL WORK CONSTRAINTS.**

The Contractor shall note that the Airport is in operation 24 hours per day, 7 days per week. Because of this, the Contractor shall plan and execute all construction activities, movement of materials, personnel and equipment, demolition of existing property, so as to not impede any operations of the Airport or public, such as the movement of vehicles, foot traffic, aircraft or emergency vehicles. **Airport operations take precedence over all other activities.**

When working within the Airport Operations Area (AOA), Contractor shall adhere to the below special conditions:

- A. To assure the safe operation of aircraft, safety of passengers and employees, the Contractor may be asked to work other than normal working hours to minimize impact to daily operations. This shall be anticipated whenever construction occurs on the AOA, unless construction fencing and barricades surround the project. The Contractor shall take this into consideration, and no additional costs will be borne by the Owner for this constraint.
- B. Some work will be within the AOA and will take place adjacent to moving vehicles. Contractor shall give way to all air traffic. All vehicles and equipment shall remain inside the Contractor's work area.
- C. The Contractor shall be responsible for repairs to any paved or unpaved areas within the AOA that are damaged by the Contractor's construction operations.
- D. The Owner reserves the right to suspend any or all Contractor construction for periods of time as may be required for aircraft operations or weather emergencies.
- E. All Work to be performed in the AOA must be accomplished under FAA, TSA and Airport rules, regulations and restrictions.
- F. Contractor shall be responsible for maintaining continuity of lighting on operational runways, taxiways or aprons, even if this requires temporary wiring to be installed by the Contractor as part of the Work.
- G. No smoking is permitted on the AOA. No open flame without specific Owner approval will be allowed on the Airport.
- H. The Contractor is responsible for installing safety fencing to contain Contractor's work operations when on the AOA. A four-foot high, orange fabric fence will be acceptable for this purpose. All temporary work areas within the AOA shall be properly barricaded and weighted so as not to be moved about in a high wind. If barricades cross all or a portion of apron, taxiway or runway, barricades shall be spaced at ten (10) foot centers and have flashing yellow lights for nighttime visibility. Contractor is responsible for all other necessary barricading to protect persons and property.
- I. The Contractor may be required to perform Work during nighttime hours, requiring adequate lighting. The Owner prior to installation shall approve lights in an effort to prevent impact to air traffic operations.
- J. Within a construction area, the Contractor shall make certain there is never any accumulation of spoil or debris which might be moved outside the fenced area by wind or jet blast from aircraft. The Contractor shall maintain the area in this condition on a continuous basis and shall leave the entire work area clean at the end of each work shift.

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- K. Contractor's work cranes will be allowed in the Contractor's work area, only as approved by the Owner. The Contractor shall comply with FAA Advisory Circular AC 70/7460-1 by providing necessary crane information to the Owner in advance of crane arrival and erection. The Owner will then submit Form 7460-1 for FAA approval.

All trucks delivering, removing, or moving bulk materials about the Contractor's work area shall be fully covered to eliminate any material or dust blowing from the truck.

## 2.0 PROJECT SPECIFIC SPECIAL CONDITIONS

### A. Worker & Material Access:

1. The Contractor and all Contractor personnel or agents that enter the work site share responsibility for the security and accountability of all small tools and other restricted items that they use, possess, or bring into the work site.
2. Workers will only enter the secured areas via the Airport Worker Inspection Point (AWIP) entrance or Gate 1080.
3. Project materials will enter the secured areas only between the hours of 2300 and 0500 via Gate 1020. Contractor will arrange delivery activities at least 14 days in advance and will call CLT Operations for delivery escort. Moderate wait time should be expected in these instances.
4. When performing work within the secured areas all project materials must be stored and secured in the Contractor's fenced construction area outlined in the Construction Logistics plan (CL-1)
5. CLT dumpsters/compactors, fire egress doors, or other operating equipment must never be blocked by project materials, equipment or debris by the Contractor or subcontractors.

### B. Parking and Site Access for Construction Employees: Parking for construction employees present for construction work will be provided free of charge on Airport property at 4921 Morris Field Drive, Charlotte, NC 28208. Should these areas become unavailable over the course of construction the owner will designate an alternate parking area for construction employees free of charge on airport property. It is the responsibility of the Contractor to transport construction employees to the required entry point to the work area.

1. No parking is allowed anywhere outside the designated construction area for personal or company vehicles.
2. Workers are prohibited from using the Airport provided transportation that serves the general public.

### C. Dumpster and Debris Removal: All trash and construction debris must be removed at the end of each work shift. Contractor is responsible for removing trash from the contractor's fenced work area regularly and shall maintain that no trash or debris is present outside of the work area or on the adjacent ramp area. Usage of existing CLT dumpsters is NOT permitted.

### D. Dust Control within the project areas: Any dust accumulated on the project site that is within the project areas must be cleaned by 0500 each morning. Cleaning activities shall be provided during and after dust-generating activities such as sanding, demolition, etc. as required for a clean condition.

### E. Project Logistics: All project material, parking and laydown must remain within the footprint shown or at the temporary staging area, both referenced on the Construction Logistics Plan (CL-1).

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- F. A fully completed Construction Logistics Impact (CLI) permit must be submitted via Unity Construct a minimum of 14 days prior to implementation of work.
  - G. Pre-Planning and Scheduled Interruption to Operations Construction Logistics Impact – (CLI):
    - 1. It is acknowledged and expected that disruptions to the existing operation will be necessary. Disruptions are those construction activities which: 1) alter the traffic patterns of vehicles or employees, 2) involve staging equipment outside the construction zone, 3) involve raising of construction equipment above elevation 776 (mean sea level), 4) interrupt utility services of any kind 5) create smoke or other hazards associated with welding or other construction operations, 6) remove or relocate any service to the existing area such as bathrooms, break rooms, etc. 7) or in any way change the normal manner in which operations are conducted in the existing terminal or other areas associated with the project.

During these times, a CLI permit is required prior to creating the disruption. The CLI permit must be submitted for approval 14 calendar days (or longer if required by the below 'Notices Required to Owner' section), prior to the scheduled disruption. Should the CLI permit application be incomplete or require modifications an additional 14 calendar days will be necessary for permit approval. The CLI permit will be returned to the contractor with the appropriate operations staff signature prior to the contractor being allowed to create the disruption. The format of the CLI will include the following as a minimum:

- f. A written general description of the work to be performed
- g. A written description of the anticipated disruption
- h. A written description of the purpose for installing the work during the requested timeframe
- i. Time and Date the work will begin
- j. Time and Date the work will be complete
- k. A sketch with column line references which clearly identifies the location of the work
- l. A written description and a sketch describing the procedures and temporary measures that will be implemented to mitigate the disruption

All requests for a CLI permit will be submitted through Unity Construct for approval. These procedures are intended to require the contractor to plan well in advance and for Airport Operations to be prepared for the disruption.

H. Notices Required to Owner:

The Contractor shall ensure that a Resident Project Representative (RPR) is notified for all AHJ inspections, punchwalks, and acceptance walkthroughs conducted by the Owner, Architect/Engineer, or other external representatives. Contractor personnel should not communicate directly with airlines, concession or retail contacts, any other tenant or operator in accordance with required notices without prior permission from CLT project manager.

- 1. A 2-week look ahead schedule including a detailed listing and projected start & completion dates of any activities to occur within the next 2 weeks will be provided at every Owner-Architect-Contractor (OAC) meeting or if no OAC meeting is scheduled then it shall be provided on Tuesday of every week, beginning with the issuance of the Notice-To-Proceed.
- 2. For work in any area that is reasonably foreseeable to disturb any tenant - 30 days, including submission of a completed CLI.

3. For electrical shutdown - 60 days including submission of a completed CLI.
4. For changes to the initial or any current SIDA plan or barrier or disabling of access doors or camera systems - 90 days including submission of a completed CLI.
5. For HVAC, Fire Suppression or Fire Alarm shutdowns or cutovers - 30 days including submission of a completed CLI.
6. For transition from one construction phase to the next in accordance the Construction Logistics Plan (CL-1) - 30 days including submission of a completed CLI.
7. For shifts in vehicle or pedestrian traffic routes - 30 days including submission of a completed CLI.
8. Notice of any other shutdown or activity that is reasonably foreseeable to cause an impact to operations or that require coordination with CLT Facilities, CLT Security, CLT IT or other CLT departments -30 days including submission of completed CLI.
9. For any entrance into tenant office spaces on Ramp, Ticket, or Mezzanine levels -14 days including submission of completed CLI. CLT on-site representative and/or Contractor supervisory personnel must accompany the workers whenever entering the tenant office spaces unless otherwise directed by the owner.

### 3.0 SAFETY AND CONSTRUCTION ACTIVITY AND AIRCRAFT MOVEMENTS.

- A. During the time that the Contractor is performing the work under this contract, the existing terminal ramps, taxiways, and runways at the Airport will remain in use by aircraft, except as provided herein. To the extent feasible and convenient, in the discretion of the Owner and to the extent permitted by the Federal Aviation Administration (FAA), the use by aircraft of runways and taxiways adjacent to areas where the Contractor is working will be scheduled so as to reduce disturbance to the Contractor's operations. Aircraft operations, unless otherwise specified in the Contract Documents shall always have priority over any and all of the Contractor's operations, and the Contractor shall not allow his employees, subcontractors, material suppliers, or any other persons over whom he has control to enter or remain upon any part of the Airport or allow any plant or materials to be brought or to remain upon any part of the Airport which, in the opinion of the Owner, would be a hazardous location. Should ramps, runways, or taxiways be required for use by aircraft, and should the Owner deem the Contractor to be too close to any portion of the ramps, runways or taxiways used by aircraft for safety, Owner may, in his sole discretion, order the Contractor to suspend his operations; remove his personnel, plant, equipment, and materials to a safe distance; and stand by until the ramps, runways and taxiways are no longer required for use by aircraft.

The Contractor shall not allow his/her employees, subcontractors, material suppliers, or any other persons under the Contractor's control to cross any active runway without an escort by authorized Airport personnel. The Contractor may be subject to fines for any violation of [CLT AOA Standards](#).

- B. Additional Safety Requirements. The Contractor will adhere to the following requirements when working in close proximity to aircraft:
1. Brief each equipment and vehicle operator to thoroughly acquaint him with the absolute necessity of exercising discretion, care and proper judgment while in the vicinity of aircraft operations.
  2. Assist the Owner and Airport security in monitoring the conduct of each operator.
  3. Require all operators to maintain a safe and reasonable speed and to utilize equipment strictly in accordance with prevailing weather conditions.
  4. At the direction of the Owner, dismiss from the Project any person operating unauthorized vehicles



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or equipment in an unauthorized area, or operating vehicles or equipment in a reckless and unreasonable manner.

5. The Contractor shall not allow trash or debris to accumulate in his work or operations area. Extreme caution will be taken to keep all trash and debris from taxiways, runways, and ramp areas.
  6. The Contractor shall not allow his vehicles or equipment to be operated within 180 feet of the centerline of an active taxiway or within 250 feet of the centerline of an active runway, unless they are using a designated haul route in accordance with Contract Documents, and have the express consent of the Owner.
  7. Immediately cease and remove his operations from any operations or work area at any time he is instructed to do so by the Owner or the FAA. These instructions will be issued by radio or other means, if appropriate. The Contractor shall not return operations to the area until he has received permission to do so from the Owner.
  8. Contractor shall provide, erect, and maintain all necessary barricades, signs, danger signals, and lights for the protection of the work and the safety of the public for both land and air traffic. Obstructions shall be illuminated as required by the Owner.
- D. Marking of Required Clearances. The Contractor will establish a system of visual aids for marking and delineating the limits of required clearances adjacent to active runways, taxiways, and NAVAIDS during the process of construction set forth in the Contract. The system shall be easily distinguishable during both day and nighttime work. A detailed plan of materials and procedures the Contractor proposes to use will be submitted to the Owner for approval prior to the start of any work under this Contract. Any deviations from the plan must be requested and approved by the Owner. The Owner may request changes to the established plan whenever it is necessary for the protection of Airport operations. The approved system of marking and delineation shall be installed, maintained, and protected at all times.

#### 4.0 FEDERAL FINES

The Contractor agrees to accept and reimburse City for any fines levied against the Owner by the Federal Aviation Administration, Transportation Security Agency or any other federal department or agency for any violation of any federal law, regulation, rule or order by the Contractor and its employees or any of the Contractor's subcontractors, vendors, suppliers and agents and their employees.

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**E. INSURANCE REQUIREMENTS**

1. Section 11.1 (Contractor's Liability Insurance), Section 11.2 (Owner's Liability Insurance) and 11.3 (Property Insurance) of the General Conditions (AIA Document A201 2007) are superseded and replaced by Sections 2 through 10 below.
2. Contractor's Liability Insurance. Prior to the commencement of Work, Contractor, and all of its Subcontractors, shall procure and maintain in effect at all times during the performance of the Work under the Contract and until all of their obligations have been satisfied, including any warranty periods under this Contract, the insurance coverage and limit requirements described in this section. Such insurance shall be from a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located. Contractor shall also provide any other insurance specifically requested in writing by the Owner.
3. Contractor shall furnish the Owner with certificates of insurance verifying the required coverage. Owner reserves the right to request and receive certified copies of any or all of the policies and endorsements. Failure to maintain the required insurance policies or to provide evidence of renewal is a material breach of contract and shall entitle the Owner to terminate or suspend the Contract.
4. The insurance policies and coverage limits the Contractor is required to procure and maintain for this Contract include the following:
  - A. Commercial General Liability Insurance. Commercial general liability insurance, in an amount acceptable to Owner but no less than One Million Dollars (\$1,000,000) per occurrence, unless the Project is on the Air Operations Area, in which case the minimum coverage is Five Million Dollars (\$5,000,000). This insurance shall include coverage for products/completed operations, bodily injury, personal injury, property damage and the contractual liability assumed under the indemnity provision of the Contract. The policy shall be occurrence-based and name the Owner as an additional insured.
  - B. Vehicle Liability Insurance. Vehicle liability insurance covering the operations of Contractors' owned, non-owned and hired automobiles and other ground vehicles at the Airport, for limits satisfactory to Owner but not less than One Million Dollars (\$1,000,000) bodily injury and property damage each occurrence, unless the Project is on the Air Operations Area, in which case the minimum coverage is Five Million Dollars (\$5,000,000). The policy shall be occurrence-based and name the Owner as an additional insured.
  - C. Worker's Compensation and Employer's Liability Insurance. Worker's compensation and employer's liability insurance in the amounts and form required by the laws of the State of North Carolina.
5. The Owner shall be listed as an additional insured under the commercial general liability insurance for operations or services rendered under this Contract. The Contractor shall not commence any work in connection with the resulting Contract until it has obtained all of the types of insurance set forth in this section and furnished the Owner with proof of insurance coverage by certificates of insurance accompanying the Contract. The Contractor shall be responsible for notifying the Owner of any material changes (including renewals) to or cancellation of the insurance coverages required above. The Contractor must give notice in writing to the Owner within 48 hours of the changes. All insurance policies shall be written by insurers qualified to do business in the State of North Carolina. If any of the coverage conditions are met by a program of self-insurance, the Contractor must submit evidence of the right to self-insure as

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provided by the State of North Carolina.

6. The Contractor shall not allow any subcontractor to commence work until all such subcontractors have obtained the same insurance coverages as described above.
7. The Owner shall be exempt from, and in no way liable for any sums of money that may represent a deductible or self-insured retention in any insurance policy. The payment of the deductible/retention shall be the sole responsibility of the Contractor and/or subcontractor.
8. The Contractor's insurance shall be primary of any self-funding and/or insurance otherwise carried by the Owner for all loss or damages arising from the Contractor's operations under this Contract. The Contractor and each of its subcontractors shall and does waive all rights of subrogation against the Owner.
9. Owner's Liability Insurance. The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.
10. Property Insurance. The Owner's property insurance policy includes Course of Construction coverage that insures its construction projects valued up to Ten Million Dollars (\$10,000,000), while the projects are in progress. The deductibles for Property Damage are as follows:

Project Value	Deductible
Up to \$2.5 M	\$25k
\$2.5M+ to \$5M	\$50k
\$5M+ to \$10M	\$100k

Coverage does not apply to Contractor's tools or equipment. In the event of a covered loss, the Contractor may be required to fund the applicable deductible.

11. Builder's Risk. In the event a project value exceeds Ten Million Dollars (\$10,000,000) or is otherwise ineligible for coverage under the City's property insurance policy Course of Construction coverage, Owner shall add the project to the City's Master Builders Risk policy or purchase a project-specific Builders Risk policy. The Owner, Contractor, Subcontractors or other entities or persons insured under the Builders Risk policy hereby mutually release and discharge each other from all claims or liabilities arising from loss covered by the applicable Builders Risk Insurance policy. The party submitting the claim under this policy shall be solely responsible for the deductible associated with such claim.

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**F. FEDERAL REQUIREMENTS**  
**Applicable to Non-AIP Funded Construction Projects**  
(FAA Contract Provision Guidelines, v12-29-25)

**1. CIVIL RIGHTS – GENERAL (A4)**

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin, creed, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964. **A4.3.1**

The above provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. **A4.3.2**

**2. CIVIL RIGHTS – TITLE VI ASSURANCES (A5)**

**A. Title VI Solicitation Notice:**

As a condition of a grant award, the Sponsor shall demonstrate that it complies with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d *et seq.*) and implementing regulations (49 CFR part 21) including amendments thereto, the Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, *et seq.*), U.S. Department of Transportation and Federal Aviation Administration (FAA) Assurances, and other relevant civil rights statutes, regulations, or authorities, including any amendments or updates thereto.

This may include, as applicable, providing a current Title VI Program Plan to the FAA for approval, in the format and according to the timeline required by the FAA, and other information about the communities that will be benefited and impacted by the project. A completed FAA Title VI Pre-Grant Award Checklist is required for every grant application, unless excused by the FAA. The Sponsor shall affirmatively ensure that when carrying out any project supported by this grant that it complies with all federal nondiscrimination and civil rights laws based on race, color, national origin, sex, creed, age, disability, genetic information, in consideration for federal financial assistance. The Department's and FAA's Office of Civil Rights may provide resources and technical assistance to recipients to ensure full and sustainable compliance with Federal civil rights requirements. Failure to comply with civil rights requirements will be considered a violation of the agreement or contract and be subject to any enforcement action as authorized by law. **A5.3.1**

**B. Title VI List of Pertinent Nondiscrimination Acts and Authorities**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964) including amendments thereto;

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- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
  - Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
  - The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);
  - Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
  - The Civil Rights Restoration Act of 1987 (P.L. 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
  - Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, *et seq.*) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR Parts 37 and 38;
  - Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681, *et seq.*).

#### A5.4.1

### C. [Nondiscrimination Requirements / Title VI Clauses for Compliance](#)

#### **Compliance with Nondiscrimination Requirements:**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, creed, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21 including amendments thereto.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts,

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other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
- a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

**A5.4.2****3. FAIR LABOR STANDARDS ACT (A15)**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, *et seq.*, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The Contractor has full responsibility to monitor compliance to the referenced statute or regulation. The Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

**A15.3****4. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (A17)**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The Contractor (employer) must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor (employer) retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The Contractor (employer) must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

**A17.3**

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**G. DIGITAL CAD STANDARDS FOR AIRPORT PROJECTS (rev. 5.08.2023)**

Contractor shall use and abide by the Airport's CAD standards. Information on applicable standards can be found at [www.cltcadstandards.info](http://www.cltcadstandards.info)

**V. CHARLOTTE BUSINESS INCLUSION PROGRAM**



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**1. CHARLOTTE BUSINESS INCLUSION PROGRAM:**

The Charlotte Business INclusion (CBI) Program seeks to enhance competition and participation of Minority, Women, and Small Business Enterprises (MWSBEs) in City contracting.

Leveraging the commitment of city leadership, CBI's goal is to be a national model in the business inclusion space. To accomplish this, all City departments have increasingly examined their procurements and set specific MWSBE participation goals on a contract-by-contract basis.

In addition, CBI makes a concerted effort to expand its certified MWSBE vendor pool and assist city-certified firms in growing, enhancing, and developing their businesses. CBI currently offers numerous development programs that support certified businesses in organizational training, strategic development, and networking opportunities.

A complete list of City of Charlotte certified Small Business Enterprises (SBEs) and City of Charlotte registered Minority-Owned Business Enterprises (MBEs) and Women-Owned Business Enterprises (WBEs) (SBE, MBE, and WBE, collectively MWSBE) is available on the City's InclusionCLT system:

<http://charlotte.diversitycompliance.com>

Following Charlotte Business INclusion goals have been established for this project:

**PROJECT SUBCONTRACTING GOAL:**

**SWBE Goal: 8%**

**MBE Goal: 6%**

In order to count M/W/SBE firms toward to project goal, MWSBEs must be certified with the City of Charlotte at the time of bid. For more information around certification requirements, please review the CBI Manual.

**2. APPLICATION:**

The City's Charlotte Business INclusion (CBI) Policy is incorporated into and made a part of this solicitation and the resulting contract (the "Contract"). Copies of the CBI Policy and CBI Manual may be obtained by:

Internet: [www.charlottebusinessinclusion.com](http://www.charlottebusinessinclusion.com)

Mail: Charlotte Business INclusion Office  
600 East Fourth Street, 9<sup>th</sup> Floor  
Charlotte, North Carolina 28202

For this solicitation, the CBI Policy requires that you either (a) meet the established Subcontracting Goal, as listed on the first page of this document; or (b) comply with the Good Faith Efforts and Good Faith Negotiation requirements referenced in Section 3 below. Failure to comply with the CBI Policy and CBI Manual in the bid phase constitutes grounds for rejection of your Bid. Failure to comply after the contract award may result in the assessment of damages and/or termination of your contract.

**3. SUBCONTRACTING GOALS:**

You must submit your proposed MBE, WBE, and/or SBE utilization for this Contract on CBI Form 3 (Subcontractor/Supplier Utilization Commitment Form) listing all subcontractors and suppliers that will be providing goods or services.

MBE or WBE established Goals can only be met with the City of Charlotte registered MBEs and WBEs that

have been certified as a Historically Underutilized Business by the State of North Carolina.

SBE established Goals for this project can only be met with City of Charlotte certified SBEs.

**CBI Form 3 MUST be submitted after the time of bid opening.** Failure to submit CBI Form 3 at time of bid opening shall constitute grounds for rejecting the Bid. All bidders must submit their proposed goal commitment at the time of Bid.

**If the Bidder does not meet the goal at the time of bid opening, they will have 24 hours to submit a completed CBI Form 3 demonstrating that they have met or exceeded the goal.** If the goal is not met then, the City will proceed with the Good Faith Efforts process.

Bidders must state the projected dollar amount for each MBE, WBE or SBE firm listed on their CBI Form 3 and indicate the total dollar value of participation for the contract. In the event the bidder has no MWSBE participation, the bidder is still required to indicate this on CBI Form 3 by entering the word or number zero. Blank forms will be deemed to represent zero participation.

The City will only give Bidders credit towards the established Subcontracting Goal that:

- a. Is listed on CBI Form 3 submitted at bid or within twenty-four (24) hours of bid opening (if goal not met at bid opening); and
- b. Is listed on CBI Form 3A (when applicable); and
- c. Is documented by CBI Form 4 (CBI Letter of Intent) which is submitted to the City within three (3) Business Days after the City requests it; and
- d. Meets all of the requirements of the CBI Manual.

**NOTE:** MWSBEs listed on CBI Form 3 must be actively certified/registered with the City of Charlotte as of bid date and must be performing a Commercially Useful Function as defined in the CBI Manual.

Bids submitted that do not have the above required MWSBE information indicated on CBI Form 3 constitutes grounds for the Bid to be considered non-responsive and rejected.

The established Subcontracting Goal will represent the total dollars to be spent with MBEs, WBEs, and/or SBEs as a portion of the total bid amount, which includes Contingency and excludes Allowances. The MBE, WBE, or SBE percentage will be rounded to two decimal places. As an example, if the MBE percentage is 3.571, it should be listed as 3.57%, or if it is 3.578, it should be listed as 3.58%. The percentage will not be rounded to the next "whole" number, i.e., 4%. A Bidder may round up if the third number after the decimal is a five (5) or greater.

In the event Alternates are selected by the City, the established Subcontracting Goal for this Contract will apply to the total contract amount, including Contingency, selected Alternates, and excluding Allowances ("Total Contract Amount"). If a low Bidder would meet the established Subcontracting Goal on the base bid amount, but would not meet the established Subcontracting Goal for the Alternates selected by the City, the Bidder will have three (3) days after the City notifies it of its low bid status to secure enough additional participation to meet the established Subcontracting Goal calculated on the Total Contract Amount. The low Bidder will be required to utilize CBI Form 3A to meet this requirement. This in no way exempts the bidder from the CBI requirements due at bid time.

If the Bidder fails to meet the established Subcontracting Goal, calculated on the Total Contract Amount, then the Bidder must earn the Minimum Good Faith Effort (GFE) Points and meet the Good Faith Negotiation requirements set forth in Section 4 of the CBI Manual. GFE Points will be calculated, independently, for each Subcontracting Goal that is not met. For instance, if the Bidder fails to meet the MBE, WBE, or SBE Goal that

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was set, the bidder will have to earn the minimum GFE points for MBEs, WBEs, or SBEs.

If the Bidder fails to meet the MBE, WBE, or SBE Goal on the Total Contract Amount and fails to earn the required Good Faith Efforts points, the Bid will be rejected.

The City will request CBI Form 4 Letters of Intent if you are a finalist for contract award. You must submit a separate CBI Form 4 for each MWSBE subcontractor/supplier identified on CBI Form 3 (and CBI Form 3A, if applicable) within three (3) Business Days after the City requests it.

**4. GOOD FAITH EFFORTS & GOOD FAITH NEGOTIATION:**

If two subcontracting goals are established for this Contract, then the Bidder must meet each goal. For example if a MBE goal and WBE goal are established, Bidder must meet the MBE goal and WBE goal. If you do not meet each established subcontracting goal, then you must earn the minimum good faith effort (GFE) points and meet the good faith negotiation requirements as set forth in Section 4 of the CBI Manual for the subcontracting goal that was not met.

Detailed information of the City's Good Faith Efforts and Good Faith Negotiation requirements can be found in the CBI Manual, Section 4. . Failure to meet the Good Faith Efforts and Good Faith Negotiation requirements will constitute grounds for rejection of your Bid.

Documenting Good Faith Efforts. To demonstrate Good Faith Efforts (GFE) compliance, Bidders must complete and submit CBI Form 5: Good Faith Effort (GFE) and Statement of GFE Compliance. A minimum of fifty (50) GFE Points must be earned for each Subcontracting Goal not met. If more than one Subcontracting Goal is not met, then Bidders will be required to complete and submit a separate form for each unmet Subcontracting Goal.

CBI Form 5 lists GFEs and the number of points attainable for each type of Good Faith Effort. The City will request your Good Faith Effort (GFE) / Statement of GFE Compliance if you are an apparent low Bidder for contract award who did not meet the goal. You must submit CBI Form 5 and all supporting documentation within three (3) Business Days after the City requests it.

In deciding whether to award GFEs, the City will assess whether the efforts employed by the Bidder are those that a prime contractor would reasonably be expected to take if actively and aggressively trying to meet the established Subcontracting Goal for the Contract. This assessment will be made on a case-by-case basis taking all available facts into account. The focus will be on the likely effectiveness of the steps taken. Mere pro forma efforts will not be sufficient.

The City can take into consideration the performance of the other Bidders and their achievement towards the Contract Goal when determining if a Bidder has achieved Good Faith Efforts. Additionally, the Business Inclusion Officer can take into consideration the Bidder's past performance towards meeting Contract Goals on past City contracts.

All actions necessary to earn the required GFE Points must be undertaken prior to Bid Opening. Failure to comply with the requirements set forth in this section shall constitute grounds for rejecting a bid.

Self-Performance

A Business Enterprise, who intends to perform 100% of the work on a Contract, may submit an affidavit stating that the Bidder: (i) does not customarily Subcontract any element of work; and (ii) normally performs, has the capability to perform, and will perform all elements of work on this Contract with its own current workforces. The affidavit shall be in a form provided by the City as part of the Solicitation. After approval by the Business

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Inclusion Officer, the Bidder shall not be required to comply with Section 3 of the CBI Manual.

The City may reject a Bid for non-compliance if: (i) the Business Enterprise is not licensed to perform each and every type of work included in the Contract, (ii) based on past practice or other grounds, the Business Enterprise will not be performing all of the work under the Contract with its own current workforce; (iii) the request for approval is submitted more than three (3) Days of Bid Opening; (iv) insufficient documentation is received to support the request; (v) any special skill-based qualification is available to and/or possessed by MWSBEs; (vi) there is no significant increase in the cost to the Business Enterprise for an MWSBE to perform the scope of work.

**5. CBI POLICY PROVISIONS APPLICABLE AFTER CONTRACT AWARD:**

Should the Bidder be awarded a contract with the City, the Bidder should note Section 5 (Responsibilities After Contract Award) and Section 6 (Remedies and Liquidated Damages) of the CBI Manual

As a condition for receiving payments under this Agreement, the Contractor agrees to submit any payment record into InclusionCLT, or any subsequent system designated by the City, detailing the amounts paid by the Contractor to all subcontractors and suppliers receiving payment in connection with this Contract.

**6. CBI CONTRACT PROVISIONS:**

The following provisions are incorporated into the contract.

The parties acknowledge and agree that:

- i. That Charlotte Business Inclusion Program Policy ("CBI Policy") and its Administrative Procedures Manual ("CBI Manual") are posted on the City's website and available in hard copy form upon request. Both the CBI Policy and CBI Manual comprise the CBI Program.
- ii. The terms of the CBI Program, as revised from time-to-time, are incorporated into this Agreement by reference; and
- iii. A violation of the CBI Program shall constitute a material breach of this Agreement and shall entitle the City to exercise any of the remedies set forth in the CBI Program, including but not limited to liquidated damages.
- iv. The City will incur damages if the Contractor violates the CBI Program, including but not limited to loss of goodwill, detrimental impact on economic development, and diversion of internal staff resources. The parties further acknowledge and agree that the damages the City might reasonably be anticipated to incur as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Contractor agrees to pay the liquidated damages assessed by the City at the rates set forth in the CBI Program for each specified violation. The Contractor further agrees that for each specified violation the agreed upon liquidated damages are reasonably proximate to the loss the City will incur as a result of such violation.
- v. Without limiting any of the other remedies the City has under the CBI Program, the City shall be entitled to withhold periodic payments and final payment due to the Contractor under this Agreement until the City has received in a form satisfactory to the City all claim releases, payment affidavits and other documentation required by the CBI Program. In the event payments are withheld under this provision, the Contractor waives any right to interest that might otherwise be warranted on such withheld amount under North Carolina General Statutes Section 143-134.1.
- vi. The remedies set forth in the CBI Program shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.
- vii. The Contractor agrees to participate in any dispute resolution process specified by the City from time-to-

time for the resolution of disputes arising from the CBI Program.

viii. Nothing in this Section shall be construed to relieve a Contractor from any obligation it may have under North Carolina General Statutes Section 143-134.1 regarding the payment of subcontractors.

ix. Payment Reporting. As a condition for receiving payments under this Agreement, the Contractor agrees to submit any payment record into InclusionCLT, or any subsequent system designated by the City, detailing the amounts paid by the Contractor to all subcontractors and suppliers receiving payment in connection with this Contract

**Remedies for Violation of CBI Policy.**

A violation of the CBI Program by a Contractor is deemed to be a material breach of the Contract.

The City shall be entitled to:

- i. exercise all rights and remedies at law or at equity;
- ii. terminate the Contract for default;
- iii. suspend the Contract for default;
- iv. withhold all payments due to the Contractor until the violation has been fully cured;
- v. withhold all payments due to the Contractor until a mutually agreeable resolution has been reached with the City; and/or
- vi. assess any liquidated damages under Section 6.2.

The remedies set forth herein shall be deemed cumulative and not exclusive, and may be exercised successively or concurrently, in addition to any other available remedy.

**Liquidated Damages.**

The City and the Consultant acknowledge and agree that the City will incur costs if the Consultant violates the CBI Policy and/or CBI Manual in one or more of the ways set forth below, including but not limited to loss of goodwill, detrimental impact on economic development and diversion of internal staff resources. The parties further acknowledge and agree that the damages the City might reasonably be anticipated to accrue as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Contractor agrees to pay the liquidated damages assessed by the City at the rates set forth below for each specified violation of the CBI Policy. The Consultant further agrees that for each specified violation the agreed upon liquidated damages are reasonably proximate to the loss the City will incur as a result of such violation:

- i. **Failure to Meet Contract Goal**  
If a Contractor will not or did not meet a Contract Goal and such failure is not excused pursuant to Section 5.1.2, then the City may assess the lesser of: (a) \$200,000 or (b) the dollar difference between the Contract Goal and the Contractor's actual MWSBE utilization. This may be assessed only once per Contract.
- ii. **Use of a Conduit**  
If the Contractor lists an MWSBE for a Contract Goal with knowledge that the MWSBE will be acting as a Conduit or will not be performing a Commercially Useful Function, the City may assess the lesser of: (a) \$100,000 per incident; or (b) the dollar amount stated on the MWSBE's letter of intent.
- iii. **Wrongful Termination or Replacement of an MWSBE Subcontractor**  
If the Contractor terminates or replaces an MWSBE Subcontractor in violation of Section 5.3.1, then the City may assess the lesser of: (a) \$50,000 per incident; or (b) the dollar amount of the prospective work to be performed by the MWSBE Subcontractor.
- iv. **Failure to Perform Modified Good Faith Efforts**  
If the Contractor fails to comply with Section 4.2, then the City may assess the lesser of: (a) \$50,000 per incident; or (b) the dollar amount of the prospective work to be performed by the

MWSBE Subcontractor.

**v. False Statements and Misrepresentations**

If the Contractor makes a false statement, material misrepresentation, or material misleading omission regarding any matter, then the City may assess the lesser of: (a) \$50,000 per incident; or (b) the dollar difference between the Contractor represented as payment and what was actually paid. In the event of any overlap between Section 6.2.5 and Section 6.2.2, then the damages set forth in Section 6.2.2 shall apply.

**vi. Failure to Respond to Request for Information**

If the Contractor fails to provide any report, documentation, affidavit, certification, or written submission required under the CBI Program within the time period set forth therein, the City may assess \$40 per Day until receipt of the item.

**vii. Use of An Affiliate to Meet the Contract Goal**

If the Contractor listed an MWSBE for a Contract Goal with knowledge that the MWSBE is an Affiliate and the City cannot invoke Section 5.2.2, then the City may assess the lesser of: (a) \$75,000 per incident or (b) the dollar amount paid to the MWSBE Affiliate. In the event of any overlap between Section 6.2.7 and Section 6.2.2, then the damages set forth in Section 6.2.2 shall apply.

**viii. Quick Pay Commitment**

If a Quick Pay Commitment is offered to any MWSBE Subcontractor in the Vendor Documents but is not subsequently honored, then the City may assess the lesser of: (a) \$50,000 or (b) ten percent (10%) of the dollar amount listed on the MWSBE Subcontractor's letter of intent.

**ix. Violation of Exempt Performance Allowance**

If a Contractor submits an affidavit under Section 3.2 but Subcontracts thereafter, then the City may assess the lesser of: (a) \$25,000 per incident; or (b) the dollar amount of the work performed by any and all Subcontractors.

The City shall be entitled to exercise all remedies and recover all damages set forth in Section 6 directly from each Contractor that the City enters into a Contract with, regardless of whether such remedies or damages are due to a breach by that Contractor or by a Subcontractor on the applicable project. Each Contractor on a Contract shall be responsible for taking appropriate measures to enable it to exercise all remedies and recover all damages set forth in Section 6 directly from each Subcontractor. Additionally, the City shall be a third-party beneficiary to each Contract for the purpose of seeking injunctive relief and other remedies to the extent necessary to enforce the CBI Program directly against Contractors, though the City shall have no obligation to do so.

7. **Payment Reporting.** As a condition for receiving payments under this Agreement, the Contractor agrees to submit any payment record into InclusionCLT, or any subsequent system designated by the City, detailing the amounts paid by the Contractor to all subcontractors and suppliers receiving payment in connection with this Contract

8. **CBI FORMS:**

Bidders shall submit the following CBI forms within the timeframes indicated below:

Document	Document Description	Submission Requirements
<b>CBI Form 1</b> Intent to Self-Perform	Intent to self-perform <b>all</b> scopes of work on the project.	Should only be submitted in lieu of CBI Form 3 if the Bidder/Proposer intends to self-perform all scopes of work

	If the Bidder is not licensed to perform each and every type of work included in the Contract, or if the City has cause to believe based on past practice or other grounds that the Bidder will not be performing all work under the Contract with its own workforce, then the City may reject the Bidder's Bid for non-compliance with the CBI Policy.	involved in the project <b>and</b> can provide sufficient documentation for confirmation.
<b>CBI Form 2</b> Solicitation Form	Identifies any MWSBE firms that the Bidder/Proposer contacted during the bid solicitation period.	<b><i>Not required at time of bid opening.</i></b> This form is only required when Bidder/Proposer did not meet the established MWSBE goal(s) as part of documenting Good Faith Efforts. Due within three (3) business days after requested by the City.
<b>CBI Form 2A</b> Good Faith Negotiation Form	Bidders must submit a completed CBI Form 2A for each MWSBE who bid the project and was ultimately not selected by the Bidder to participate on the Contract.	<b><i>Not required at time of bid opening.</i></b> This form is only required when Bidder/Proposer did not meet the established MWSBE goal(s) as part of documenting Good Faith Efforts. Due within three (3) business days after requested by the City.
<b>CBI Form 3</b> Utilization Commitment	Identifies all subcontractors, suppliers, manufacturers, haulers, brokers and/or members of a joint venture to be utilized on the contract, percentages and dollar amounts committed to MWSBEs and non-MWSBEs.	<b>Must be submitted with Bid/Proposal Package.</b>
<b>CBI Form 3A</b> Utilization Commitment-Alternate	Identifies additional MWSBE participation commitments made after bid opening when there are accepted alternates.	This form will only need to be submitted if the City selects alternates. Must be submitted within (3) business days after requested by the City.
<b>CBI Form 4</b> Letter of Intent	Bidders must submit an executed Letter of Intent with each separate MSBE firm listed on CBI Form 3.	To be submitted by successful Bidder <b>after</b> bid opening.
<b>CBI Form 5</b> Good Faith Efforts (GFE) Compliance Statement	Identifies the minimum GFE points required for this contract, the GFE Categories, and respective GFE Points value for each GFE Category	<b><i>Not required at time of bid opening.</i></b> This form is only required when Bidder/Proposer did not meet the established MWSBE goal(s) as part of documenting Good Faith Efforts. Due within three (3) business days after requested by the City.

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<b>CBI Form 6</b>	Contractor shall provide a payment affidavit showing	
Payment	payments made to all subcontractors, suppliers,	Upon award of Contract, Form 6
Affidavit	manufacturers, brokers, and members of a joint	should be included with each pay
	venture in connection with the Contract (MSBEs and	request submitted to the City. List <b>ALL</b>
	non-MSBEs)	subcontractors (MWSBEs and non-
		MWSBEs)

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All CBI Forms and a full list of MWSBE vendors are available on-line at: [www.charlottebusinessinclusion.com](http://www.charlottebusinessinclusion.com)

All CBI Forms and additional CBI information are available at [cltairport.com](http://cltairport.com) – “Doing Business With CLT” – “Business Diversity Programs” – “CBI Program”. Please make sure you review and are familiar with this additional information.



## **VI. AIRPORT SECURITY REQUIREMENTS**

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**A. CLT SECURITY PROGRAM**

1. The Airport is, and must remain, secured to prevent unauthorized access into the Security Identification Display Area (SIDA). In order to maintain the integrity of the SIDA, the Contractor shall fully comply with the CLT Security Standards, all applicable CLT Security policies or practices, and shall fully cooperate with all security related directives issued to it by CLT .
2. Construction Security Requirements. The Contractor shall meet all training and operational requirements of Federal Air Regulation (FAR) Part 139 and Transportation Safety Regulation (TSR) 1542 as contained in the Code of Federal Regulations (CFR), the CLT Security Standards, and all other applicable rules, regulations, and requirements as established by CLT. The Contractor is under a duty to remain up to date and shall keep itself and all of its personnel and subcontractors informed of all current security requirements throughout the contract. Exact requirements may vary, but, in general, the primary requirements are as follows:
  - a. If the Contractor performs Work within the SIDA or a Restricted Area, each Contractor and subcontractor employee and staff must obtain a SIDA Badge. . (See Section B., below.) Additionally, if the Contractor performs work within any Restricted Area(s) of the airport it must submit a Construction Security Plan for approval and coordination with TSA no later than 60 days prior to the start of construction – See §VI.C. below.
  - b. The Contractor shall mark each vehicle and pieces of equipment that it or its subcontractors bring onto CLT property with a company name or logo on the sides of the vehicles and equipment pursuant to the current requirements outlined in the CLT AOA Standards and CLT Security Standards. (For the purpose of this specification, a vehicle shall be defined as any device, including cars, trucks, buses or other conveyances, which can be driven. All towed devices will be considered equipment). **No private vehicles are allowed on the AOA. All vehicles must be registered in a Company name and carry the necessary insurance as required herein.**
  - c. No person will be allowed to operate a vehicle in the active AOA unescorted without successfully completing the airport-approved Driver Training Program. The Contractor will not be authorized driving privileges unless the work requires access into the active AOA and cannot be accomplished otherwise and then only with the approval of CLT.
  - d. CLT will provide security personnel to staff all SIDA and/or AOA access points, unless otherwise specified in writing. It is the responsibility of the Contractor to:
    1. Notify the CLT Security Office (CLTSEC) within 10 days of contract award for coordination and to ensure that the Contractor and CLTSEC staff understand the demands of the project.
    2. Notify and coordinate with CLTSEC at least 30 days before any specific SIDA/AOA access point is needed.
    3. Notify and coordinate with CLTSEC at least 3 days before any change to a SIDA/AOA access point (e.g. cancellation; additional or reduced personnel.
    4. CLTSEC may be contacted by email at [ASC@cltairport.com](mailto:ASC@cltairport.com) .

Cancellations or additions of the requested personnel within the 72 hour timeline are subject to additional costs agreed upon by the Contractor and CLT at the beginning of the Project.
  - e. The Contractor shall allow only persons with the required SIDA badge passage into the SIDA through project access points. Escorted visitors are allowed on a limited basis, pursuant to the allowances in the CLT Security Standards or as otherwise authorized by CLTSEC. The Contractor is

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required to provide an escort for all approved visitors, vendors, or delivery vehicles. The Contractor will be subject to a fine of up to \$25,000 for any unauthorized entry that it facilitates or allows at an access point being utilized for this project.

- f. All vehicles must display and use a rotating amber-colored beacon while operating within the AOA.
- g. All of the Contractor's employees, subcontractors, or suppliers who are within the SIDA must have and properly display a SIDA badge. The Contractor will be liable to CLT for a liquidated damage assessment of \$100 for each and every occurrence of any of its employees, subcontractors, or suppliers being within the SIDA without properly possessing and displaying their SIDA badge. This assessment may be deducted from monies owed the Contractor under this contract by the Owner.
- h. If for any reason a SIDA badge issued to the Contractor's employees, subcontractors, or suppliers is lost or stolen and must be replaced, the Contractor will be charged a fee of according to the lost badge fee schedule listed on the CLT Credentialing website. The Contractor shall immediately notify Airport Operations when a SIDA badge is lost or stolen. Airport Operations shall be notified by calling (704) 359-4012. Also, if a SIDA badge is damaged and must be repaired or replaced, the Contractor must return the damaged badge in exchange for a new badge. There will be a charge according to the fee schedule listed on the Credentialing website for this exchange.
- i. Upon completion of the project, all SIDA badges obtained by the Contractor's employees, subcontractors, or suppliers must be returned to CLT. The Contractor will be assessed a Multi-area unreturned badge fee listed on the Credentialing website for each badge not returned. This assessment will be deducted from monies owed the Contractor under this contract at the time of final payment.
- j. In the event a Contractor's SIDA badged employee sees another person on the SIDA or AOA with no visible badge and does not know the person (not part of his/her team or project member), **he/she must challenge the person** by asking the person to present his/her badge. If the unknown person is unable to present a badge, **it is the responsibility of the badged person to report** this to the Airport Operations staff. Airport Operations can be reached by calling (704) 359-4012. If the badged person does not have access to some form of communication, then they shall report the information to any badged person in the vicinity who may have access to a telephone or radio. It is everyone's responsibility to ensure the Airport remains safe and secure at all times. This is accomplished by challenging any individual with no visible identification.

The Contractor is responsible for ensuring all site staff, including subcontracted staff, are briefed on and maintain an understanding of all relevant rules, regulatory requirements, and site-specific security requirements. Significant or repetitive violations of these rules and requirements will result in a Corrective Action Plan being generated. Should the Contractor fail to adhere to the Corrective Action Plan, a fine of \$10,000 may be assessed for each subsequent failure.

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**B. AIRPORT CREDENTIALING REQUIREMENTS**

1. Before a Contractor may cause or direct a person to enter or perform Work within the SIDA or other Restricted Area, each Contractor and subcontractor related employee, staff, personnel, agent, or person that requires unescorted access to the SIDA must obtain a SIDA badge.
  - a. Contractors and subcontractors must initiate the onboarding process to obtain a SIDA badge no later than 60 days prior to the contract NTP date. The onboarding process is initiated when the Contractor(s) send an email to [avbadging@cltairport.com](mailto:avbadging@cltairport.com). The mail shall identify your company, company primary point of contact, phone number and a name and description of the project(s) assigned. CLT Credentialing Staff will respond with the required steps, forms and company sponsorships that are required to complete the onboarding process. The onboarding process must be completed prior to beginning the Contractor and Subcontractor employee badge application process.
  - b. Assignment of Authorized Signers will be determined by CLT after consideration of multiple operational and administrative factors including, number of contract relationships and projects, contract duration, anticipated badge population, contractor and sub-contractor ability to meet regulatory requirements and relevant history of regulatory compliance and badge accountability. Contractors and Subcontractors will be limited to two (2) Authorized Signers unless there is a specific operational justification presented that supports the approval of additional Authorized Signers.
  - c. The SIDA badge application process for unescorted access will require that each applicant meets specific regulatory requirements which includes identity and work authorization validation, fingerprint based Criminal History records check (CHRC), a Security Threat Assessment (STA) and review and attestation that they have not been convicted of, or found not guilty by reason of insanity, of any of the disqualifiers listed in 49 CFR 1542.209 in the last ten (10) years. In addition, badge applicants cannot have any active warrants, be under indictment, or still have pending judicial proceedings associated with any of the above disqualifying crimes.
2. The Contractor must comply with the SIDA badge accountability requirements found in the CLT Security Standards. An unreturned badge creates an unnecessary security vulnerability that can be avoided with sound security practices and badge accountability. An unreturned, unaccounted for badge, includes, but is not limited to SIDA badges that are: Revoked Not Returned, Suspended Not Returned, Lost / Stolen, and expired unreturned badges.
  - a) When unescorted access is no longer required or if a badge is lost or stolen, **the badge must be deactivated immediately**. The Contractor shall return all badges that are no longer needed for unescorted access. This includes employees who have completed work, or who are no longer employed by the Contractor or their Subcontractors, or who are no longer required to perform work within the SIDA or Restricted Area(s) for the project.
  - b) In addition to meeting ongoing badge accountability requirements, Contractors and their Subcontractors shall ensure that all SIDA badges are returned to CLT when access is no longer required and shall collect, deactivate, and return all badges at the conclusion of the contract.
  - c) As stated in the CLT Security Standards and CLT Credentialing Compliance Agreement completed during the onboarding process, Contractors are responsible for, and shall be required to pay CLT the unreturned multi-area badge fee for any unreturned SIDA badge (including those of Subcontractors) based on the current fee

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schedule located on the Credentialing web-page <https://www.cltairport.com/business/credentialing/>

- d) Contractor and Subcontractor personnel can only use the SIDA badge issued for the specific company and/or Work related to this contract. SIDA badges and access keys **MAY NOT BE SHARED**, even between otherwise authorized staff. Any sharing of SIDA badges or issued access keys will result in immediate and permanent revocation of the offending person(s) SIDA badge.

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### C. CONSTRUCTION SECURITY PLAN

If the Contractor performs work within any Restricted Area(s) of the airport, it must submit a Construction Security Plan for approval and coordination with TSA no later than 60 days prior to the start of construction.

The Construction Security Plan shall address all matters and procedures that are necessary and proper or as reasonably directed by CLT.

The Construction Security Plan will be used to train all Contractor employees in the proper procedures for security at Charlotte Douglas International Airport.

A copy of the Construction Security Plan will be provided to all Contractor supervisors and reviewed at the weekly safety meeting.

### D. SECURITY ACCEPTANCE TESTING PROCESS

1. Access-controlled doors and associated hardware must be in place and tested before activation (Testing requirements are captured on forms that will be provided by CLT. The project form is to be fully completed by the project team before the doors and items are considered for the final activation test. The process is broken down into three main categories:

- a) **Infrastructure** - Cabling installation, testing, and verifying that it meets CLT Airport cabling standards and its connection to the iStar panels.
- b) **Access Control** - Programming of the individual access points, including alarm events, cameras, and camera and access control integration, will be performed by the CLT-authorized contractor, who will also perform the initial test. Results must be captured on the "Project Team Door Commissioning Checklist." After the Contractor testing, the individual points may be turned off until they are ready for commissioning.
- c). **General Door Installation** - Pertains to the mechanical functioning of the door, such as door closures, door stops, and final cores, and includes regulatory signage.

#### **Process:**

2. The Contractor, working in cooperation with the project team, must submit a Security Acceptance Request for Testing Plan as soon as reasonably possible but in no event later than 60 days prior to the anticipated Substantial Completion date. This Plan must include desired milestone dates that account for the following:

- a. Planned Locksmith activities.
  - b. Planned acceptance testing.
  - c. Final state regulated area boundary configurations, based on which final ASP amendments may need to be developed.
  - d. In the case of doors, projected groups of individuals who will require access through the doors.
2. Once the Plan has been accepted by the Security team, the Project and Security teams will meet to discuss project priorities and will produce a testing timeline including specific dates.

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3. Certain items and systems are required before testing may occur. The access control/CCTV Contractor must activate that equipment before the testing, and the equipment cannot be used operationally until it is fully commissioned. The Contractor may be present for the commissioning testing. Below are items that are required to be installed, operational, and ready in order for testing & commission to occur:
    - a. Door Signage – regulatory signage must be in place.
    - b. Final lock cores must be installed.
    - c. Functionality and all alarm reporting of the access control system.
    - d. CCTV.
    - e. Integration of the access control and CCTV systems.
    - f. Identified permissions and properly assigned permissions for the access control and CCTV systems.
    - g. Identified groups and individuals that will need to be assigned access to the door.
  4. Once the testing is successfully completed, the CLT Security Operations team will assign proper clearances for staff to the doors.
  5. Following the Security Acceptance Testing, the doors must be used as designed, and any modifications, alarm overrides, etc., must be approved by the Airport Security Coordinator or designee. The request may be submitted by emailing [asc@cltairport.com](mailto:asc@cltairport.com).

If any components fail or milestones are missed, the project's acceptance, delivery, or go-live dates may be delayed.

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## **VII. CONTRACT FORMS**

Forms for this Project are deemed to be incorporated herein.



**A. STATE/COUNTY SALES/USE TAX STATEMENT**

PROJECT: \_\_\_\_\_

CONTRACTOR/ SUBCONTRACTOR: \_\_\_\_\_

PERIOD COVERED: \_\_\_\_\_ PAGE: \_\_\_\_\_ of \_\_\_\_\_

Invoice No.	Invoice Date	Vendor's Name	City Vendor No.	Amount Before Taxes	NC Tax	County Tax	Total Invoice Amount	County Paid
Subtotal (Page 1)				\$	\$	\$	\$	
Plus total cost of material withdrawn from our warehouse stock								
<b>Grand Total</b>				\$	\$	\$	\$	

I certify that the above listed vendors were paid sales tax upon purchases of building material during the period covered by the construction estimate, and the property upon which such taxes were paid with or will be used in the performance of this contract. No tax on purchases of tangible personal property purchased by such contractors for use in performing the contract which does not annex to, affix to, or in some manner become a part of the project, building, structure or repairs included in the above list.

Signed: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 202\_\_\_\_

Signature of Notary \_\_\_\_\_

of \_\_\_\_\_ County

State of \_\_\_\_\_

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

**B. CHANGE ORDER FORM**

DATE:

PROJECT NAME:

CONTRACTOR NAME:

VENDOR NUMBER:

CHANGE ORDER NUMBER:

CONTRACT NUMBER:

**Description of Change**

Item No.	Description	Cost (Addition/Deduction)

**Financial Summary**

Net Change for This Change Order	
Net Change by Previous Change Orders	
Original Contract Amount	
Adjusted Contract Amount	

Original Contract Contingency (Owner)	
Contract Contingency (Owner) Used To Date	

Original Contract Contingency (CM)	
Contract Contingency (CM) Used To Date	

**Schedule Summary**

Original Contract Time	
Contract Time Adjustments to for this Change Order	
Contract Time Adjustment to Date	
Adjusted Contract Time	

**This change order represents full and final settlement for time and money for the work set forth in this change order, including not only all direct costs of Contractor such as labor, material, job overhead, and profit markup but also any costs for modifications or changes in sequence of work to be performed, delays, rescheduling, disruptions, extended direct or general overhead, acceleration, material or other escalation which includes wages and other impact costs. The completion date, contract price and all other terms, covenants and conditions of the above referenced contract, except as duly modified by this and previous change orders, if any, remain in full force and effect.**

[SIGNATURES APPEAR ON FOLLOWING PAGE]

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**ACCEPTED:**

**CONTRACTOR:**

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

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

**OWNER:**

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

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

This instrument has been preaudited in the manner required by the "Local Government Budget and Fiscal Control Act".

\_\_\_\_\_  
City of Charlotte Finance Officer

**C. CONTINGENCY TRANSFER FORM****DATE:****PROJECT NAME:****CONTRACTOR NAME:****VENDOR NUMBER:****CONTINGENCY AUTHORIZATION NUMBER:****CONTRACT NUMBER:****Description of Change**

Item No.	Description	Cost (Addition/Deduction)

**Financial Summary**

Contingency Authorization Amount	
Original Contract Contingency	
Contract Contingency Spent To Date	
Contract Contingency Remaining	

**Schedule Summary**

Original Contract Time	
Contract Time Adjustments to Date	
Contract Time Adjustment for this Contingency Authorization	
Adjusted Contract Time	

**This Contingency Authorization represents full and final settlement for time and money for the work set forth in this Contingency Authorization, including not only all direct costs of Contractor such as labor, material, job overhead, and profit markup but also any costs for modifications or changes in sequence of work to be performed, delays, rescheduling, disruptions, extended direct or general overhead, acceleration, material or other escalation which includes wages and other impact costs. The completion date, contract price and all other terms, covenants and conditions of the above referenced contract, except as duly modified by this and previous contingency authorizations and change orders, if any, remain in full force and effect.**

**[SIGNATURES APPEAR ON FOLLOWING PAGE]**

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**ACCEPTED:**

**CONTRACTOR:**

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

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

**OWNER:**

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

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

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

This instrument has been preaudited in the manner required by the "Local Government Budget and Fiscal Control Act".

\_\_\_\_\_  
City of Charlotte Finance Officer

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**D. CONTRACTOR'S AFFIDAVIT – RELEASE AND WAIVER OF CLAIMS****STATE OF:** \_\_\_\_\_**COUNTY OF:** \_\_\_\_\_\_\_\_\_\_  
(Name)\_\_\_\_\_  
(Title)\_\_\_\_\_, being first duly sworn, deposes and says that:  
(Contractor)

1. The undersigned is authorized to execute this Affidavit, Release and Waiver of Claim on behalf of the Contractor and has personal knowledge of all facts set forth herein;
2. This Affidavit, Release and Waiver of Claim is made concerning the construction of the following project:  
  
Project Name:  
  
Contract Number:
3. All payrolls, material bills, sales tax, social security tax, state and federal unemployment insurance, and all other liabilities and taxes owed by the Contractor and arising in any manner from the above-described project have been paid in full;
4. No claim or lien exists in favor of any supplier of materials or labor or in favor of any subcontractor furnishing materials or labor on the above-described project;
5. Notwithstanding the foregoing, if the City of Charlotte or property of the City of Charlotte is subject to any claim or lien which arises in any manner from the failure of the Contractor to pay any liability described above, the Contractor will indemnify and hold the City of Charlotte harmless for any amount which the City of Charlotte is required to pay to discharge such lien or settle such claim and further will pay the City of Charlotte's expenses, costs, and attorney fees incurred in connection therewith;
6. All claims, suits, and proceedings of every name, description, or nature arising out of the above project against the City of Charlotte, its officers, employees and agents have been settled;
7. The Contractor releases and waives any and all claims of every type and description which the Contractor may have against the City of Charlotte arising in any manner from the construction of the above-described project.

\_\_\_\_\_  
(Contractors Signature)

Subscribed and sworn to before me \_\_\_\_\_ day of \_\_\_\_\_ 202\_\_\_\_

Signature of Notary \_\_\_\_\_

of \_\_\_\_\_ County

State of \_\_\_\_\_

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

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## **VIII. TECHNICAL SPECIFICATIONS**

Technical Specifications for this Project are deemed to be incorporated herein.

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## **IX. PLANS**

Plans for this Project are deemed to be incorporated herein.