



April 11th, 2025

Hocutt-Ellington Library Renovation

Bid # 700-ENG-2025-12

Addendum No. 01

Please note that this addendum is for changes and/or clarifications to the Bid Documents.

Bid Changes

Bidders on this Project are hereby notified that this Addendum as all other Addenda shall be attached to and made a part of the above-named Bidding and Contract Documents.

The following items are issued to add to, modify, and/or clarify the Bidding and Contract Documents. These items shall have full force and effect as the Bidding and Contract Documents and costs involved shall be included in the bid prices. Bids to be submitted on the specified bid date shall conform to the additions and revisions listed herein.

The date of issuance of this addendum is 4/11/2025. All conditions of the addendum are in effect as of this date. Bidders are hereby informed that the following additions, deletions, changes and/or clarifications supersede and supplement the Contract Documents for the above referenced project.

Each bidder shall be responsible for notifying his subcontractors and/or vendors of the contents of this Addendum. The items included in this Addendum are for all Contractors as the items relate to their respective trades.

From:	Davis Kane Architect PA
Transmitted to:	Plan Rooms; Known Interested Bidders;
Total Number of Pages:	193

RFI's:

1. Spec 096813 1.6A Tile Carpeting - Installers Qualifications. Per the International Certified Floorcovering Installers Association listing of certified installers there are less than 6 certified Commercial II carpet installers in a 250 mile radius of Raleigh. 2 in Charlottesville, VA, 2 in Charlotte, NC and one in SC. There is a (singular) Commercial Carpet I installer in Raleigh. Can this requirement be waived or modified? Is there another carpet installation certification organization? I am not sure you are going to find a Commercial II certification that is also a manufacturers rep.
 - a. **Certification and training/approval from the manufacturer is not required.**
2. Can you please clarify the sizes of the Milliken carpet specified for all cpt1-cpt-5 specs. Also please clarify that the attached cushion standard of Milliken carpet tile is a satisfactory backing for this job.
 - a. **Carpet sizes are as follows:**
 - i. **CPT1 & CPT2: 19.7"x39.4"**
 - ii. **CPT3, CPT4, CPT5: 9.84"x39.4"**
 - b. **The Milliken standard WellBAC Cushion Backing is satisfactory for all the carpet in this project.**
3. Spec 096500 Resilient flooring makes mention of 12x12" VCT tile and no reference to LVT specs. I assume the Milliken LVT mentioned on the plans is correct style/size required and that no VCT is needed on this job?
 - a. **There is no VCT on this project. The basis of design is LVT, Milliken Horizon, Indirect, as indicated on the drawings in the material legend. Please see attached revised Specification Section 096519 "Resilient Tile Flooring".**
4. The ceramic tile section mentions both high performance grout and epoxy grout, which is required?
 - a. **The restrooms are to receive the epoxy grout on the floors and walls. All other locations with tile shall receive the high performance grout.**
5. Are casework, shelving, or furniture included in this? I just looked through the addendum and did not see anything under the "equipment" section, but I may have missed it.
 - a. **Built-in casework is included. Shelving and other furniture is not included in the GC's scope.**
6. On the finish legend (A002), TB is noted as a 6x12 cove base. However, this series does not have a 6x12 cove base available. Is the 4x24 bullnose acceptable to price in its place? There is also a wall detail (A1+A4 on A610) that displays metal trim cove base not a ceramic cove base. Please confirm which we are proceeding with.
 - a. **That is correct, "TB" in the material legend will not be used on this project. The 2x2 mosaic floor tile will be installed with a cove metal trim as indicated in the enlarged wall details on A610. Please see revised material legend with this removed on Sheet A002 and revised finish plan on I100.**

7. CPT-4 (A002) is noted as SP5 159-282. However, I cannot locate this colorway/I confirmed with Milliken this is not a colorway. Is it supposed to be SP6 153-282?
<https://fccatalogblob.milliken.com/fccatalogblob/documents/21/4D/Six%20Pack%20106.pdf?v=2023.06.08.15.20.57>
 - a. **Yes, CPT4 is SP5 153-282 (light green/yellow color). See revised material legend on sheet A002.**
8. For the mud bed demo and the mud bed going back, I know we are sloping $\frac{1}{4}$ " to the drains, but is the rest of the mud bed supposed to be a 2" thickness – Is this what we should assume for demo and install?
 - a. **Yes, the existing slab recess is about -2". It should be assumed that the mud bed on the edges of the space will be about that 2" mark, or in other terms, enough to ensure the tile along with the marble threshold at the level it needs to be to create an accessible entry.**
9. According to the ceramic tile specs (093013 Page 12), floor tile gets high performance grout and wall tile gets epoxy grout – Is this correct? Usually, it is the opposite, so I wanted to make sure.
 - a. **The restrooms are to receive the epoxy grout on the floors and walls. All other locations with tile shall receive the high performance grout.**
10. Section 017300 calls for a registered surveyor to lay out points of construction in the building – please clarify
 - a. **A registered surveyor is not required for this project. Please disregard this requirement.**
11. 017900 This section calls for training of town personnel on all systems, sub-systems, and equipment and training to be recorded by videographer. What systems, etc. is this referring to?
 - a. **The in-person training would be required for the operations and maintenance of the mechanical and fire alarm systems. A videographer is not necessary, please disregard this requirement. GC to provide satisfactory O&M Manuals per the Project Manual.**
12. 033000 1.7.C Requires GC to hire a testing agency. Usually, the owner hires any testing.
 - a. **The GC can carry over a simple cost to cover the concrete testing within the scope of the project.**
13. Sheet A100 Note 19 & Legend – Legend shows where hydraulic cement is to be installed but note 19 indicates a complete floor survey to underlayment area – please clarify
 - a. **The area indicated with the hatch on A100 is a special circumstance where tile and mudbed are being removed from where the existing restroom will be getting cut back. This will require more patching/filling than other anticipated floor leveling in the rest of the building. When demolishing existing flooring materials, follow as indicated in note 19 of the general notes. Any repair to the flooring, on top of known patching where the legend indicates, should be included in the base bid cost.**
14. 084113 storefront requires installer is certified by North American Contractor Certification Program AND trained and approved by the storefront mfg.
 - a. **Certification and training/approval from the manufacturer is not required.**
15. 085313 Vinyl windows requires installers to be trained and approved by the mfg.
 - a. **Training/approval from the manufacturer is not required.**
16. Who pays for water, sewer, electricity, gas etc. for the existing library building during construction? If by contractor, we need to know how much the average bill is for each utility above.

- a. **Specifically, water, sewer, power will stay in the town's name and expense during construction to avoid transferring utilities back and forth for the project. The one utility that will be cut off is internet since all our equipment will be moved over to the temporary library. As for gas , We have been informed that the building doesn't use it.**
- 17. Will a temporary field office trailer be required during construction or can we setup inside the existing library?
 - a. **A temporary office can be set up within the existing library. A job trailer is not required.**
- 18. Will a warranty bond be required per page 229 of the specs? See attached.
 - a. **This is not a requirement.**
- 19. Will Contractor's Pollution Liability Insurance be required per page 232 of the specs? See attached.
 - a. **This is not a requirement.**
- 20. Will the Contractor's "Builder's Risk" Policy be required to include owner's furniture per page 235 of specs? See attached.
 - a. **Furniture will be installed after substantial completion which is typically when building insurance transfer back from GC to Owner. With that being the case, this can be omitted.**
- 21. Will Criminal Background checks be required per page 481 -482 of the specs? See attached.
 - a. **This is not a requirement.**
- 22. Will Davis Bacon be a requirement of this project?
 - a. **There is no federal funding for this project. This is not a requirement.**
- 23. Will the architect conduct progress meetings and record/distribute the meeting minutes?
 - a. **Davis Kane will conduct the OAC progress meeting and record/distribute the meeting minutes.**
- 24. How much will the permitting fees/costs be?
 - a. **Refer to the attached "Comprehensive List of Fees and Charges" from the Town of Clayton Permitting office. Please note that these fees are in affect only until June 30th, 2025.**
- 25. Are there any controls specifications for brand inclusions?
 - a. **The HVAC units will run off of thermostats and utilize the packaged controls that come with the units. No new DDC controls are needed.**
- 26. Regarding the retractable screen and ceiling mounted projector that is currently in the Children's area, do you want the GC to turn these items over to the Town during demolition, or can these items be discarded with the other demo work?
 - a. **GC can turn over the projector over to the Town but can toss the screen.**
- 27. Regarding C-700 General Conditions (pages 126-217) appears to have a bunch of red text throughout. Please confirm that this is the version we need to be referencing.
 - a. **The Town uses a modified EJCDC construction contract as their standard contract. The redlines are to show transparency to all bidders on what was changed from the standard document that so many are familiar with. Once the Town issues a project manual to the successful bidder, the Town will accept all redline changes to produce a clean contract.**
- 28. Spec Section 033000 for concrete slabs requires the GC to hire a testing agency, is this required?
 - a. **The GC can carry over a simple cost to cover the concrete testing within the scope of the project.**

29. There were two agreements within the project manual; which one should be used?
 - a. **The attached revised agreement in this addendum is the agreement that will be used for this project.**
30. Will there be a dedicated time slot for GC's and subs to visit the entire site including the back of house spaces?
 - a. **The library will be available for an additional site tour on Thursday April 17th from 2-4 pm. As previously noted, GC's/Subs are welcome to visit the library during normal operating hours since it is a public building, however access to staff/maintenance spaces wont be provided.**

Specifications:

1. Form C-520 Agreement (Contract)
2. Form C-700 General Conditions
3. Form C-800 Supplementary Conditions
 - a. Removed Warranty Bond as a requirement
 - b. Removed Pollution Liability insurance as a requirement
 - c. Revised the "Builders Risk" insurance to not include OPOI furniture.
4. 012300 – Alternates
 - a. Removed preferred brands 1 and 2 for the access control and keying. This will be provided by the Town.
5. 096519 – Resilient Tile Flooring
 - a. Removed VCT flooring and revised for BOD LVT flooring per the drawings and material legend.

Drawings:

1. Sheet G001
 - a. Revised the Table of Contents to include Sheets S102,S503, and M400. Sheet S101 title name was revised.
2. Sheet DA100
 - a. Added keynote 6 referencing the careful removal and return of the wall mounted plaques in the main library and within the corridor over to the owner.
3. Sheet A002
 - a. Revised "TB" to "MTL" for tile metal cove base.
 - b. Revised CPT4 from "SP6 159-282" to "SP6 153-282".
4. Sheet I100
 - a. Revised floor finish tag for tile flooring in restroom areas to indicate metal cove base.

Attachments:

1. Bid Register
2. Pre-Bid Meeting Minutes
3. Pre-Bid Meeting Sign-In Sheet
4. Town of Clayton List of Permitting Fees
5. Form C-520 Agreement
6. Form C-700 General Conditions
7. Form C-800 Supplementary Conditions
8. 012300 – Alternates
9. 096519 – Resilient Tile Flooring
10. Sheet G001
11. Sheet DA100
12. Sheet A002
13. Sheet I100
14. Presentation Rendering Boards (for reference only)

This addendum has been acknowledged and signed by an authorized representative of the firm and must be returned with your bid. **Failure to do so will cause your bid to be rejected:**

By: _____

(Signature)

Name: _____

(Printed)

Title: _____

Date _____

MEETING MINUTES

Project Name:	Hocutt-Ellington Library Renovation	
Owner:	Town of Clayton	
Owner Project ID.:	700-ENG-2025-12	
DKA Project No.:	2415	
Meeting Date & Time:	April 8 th , 2025 @ 10:00 am	
Meeting Location:	Clayton Town Hall, 111 E. Second St. Clayton, NC 27520	Project Phase: Bidding

Parties in Attendance:

Name	Company	Email
Chris Gallant	Town of Clayton (TOC)	cgallant@townofclaytonnc.org
Patrick Lechner	Town of Clayton	plechner@townofclaytonnc.org
Shaun Mizelle	Town of Clayton	smizelle@townofclaytonnc.org
Chad Volk	Davis Kane Architects (DKA)	cvolk@daviskane.com
Brittany Gagné	Davis Kane Architects	bgagne@daviskane.com
See attached Sign-In sheet for all other attendees		

Report By:	Brittany Gagné
Date Recorded:	04/08/25
CC:	

Please inform the Architect if any statement herein is inconsistent with your own notes or recollections.

Notes:

A. Introductions

1. Distribution of sign-in sheet & Agenda.
2. Key Project personnel and roles.
 - (a) Owner: Town of Clayton
 1. Project Manager – Chris Gallant
 2. Project Manager – Patrick Lechner
 - (b) Architect: Davis Kane Architects.
 1. Architect of Record: Jimmy Edwards
 2. Project Manager: Chad Volk (main point of Contact)
 - a. Contact Information – Email: cvolk@daviskane.com
 - (c) Engineer: Engineered Designs, Inc (EDI)
 1. Engineer Principal: John Quiocho

CRAFTING SOLUTIONS

(d) Engineer: Lynch Mykins

1. Project Engineer: Bown Shen

B. Information for Bidders

1. This project is a Single Prime Contract – The Contractor must use the Form of Proposal included in the Project Manual.
2. See Project Manual for Unit Prices, Allowances and Alternates.
3. Bid Bond – 5% bond is required for this project. Place the Bid Bond in a separate envelope from the remainder of the Bid Package.
4. Liquidated damages for this project are \$500 per calendar day passed the date of Substantial Completion.

C. Key Dates

1. Bids will be received up until Town of Clayton Town Hall located at 111 E. Second St. Clayton, NC 27520 until Tuesday April 29 at 2:00PM local time. At that time the Bids received will be publicly opened and read in the Rotary Room – 3rd Floor. This is a different location than the Pre-Bid Meeting.
2. The last day for requesting clarifications is Friday, April 18, 2025 at 5:00 PM.
3. The last Addendum will be issued on Tuesday, April 22, 2025
4. All Project Addenda will be posted on the Town's Bidding Opportunities Site where the Bidding Documents were retrieved. A note of Addendum will be sent all those who were registered to download the Bid Documents, however it is advised to check periodically for updates after the last addendum date.
5. Substitution Requests: All prices that Bidder sets forth in its Bid will be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of "or-equal" or substitution requests are made at Bidder's sole risk.
6. Anticipated Schedule:
 - (a) Notice of Award: Mid to late May 2025
 - (b) Notice to Proceed: Mid June 2025
7. Number of Contract Consecutive Calendar Days: 275 days

D. Form of Proposal

1. All applicable Federal, State and Local Taxes shall be included in the Bidder's Proposal.
2. Review all Alternates, Allowances, and Unit Prices in the Project Manual. Provide cost for each Unit Price and Alternate as listed on the Form of Proposal. Allowance amounts shall be factored into the Base Bid cost.
3. Allowances
 - (a) Certain items are specified in the Contract Documents by Allowances. These Allowances include installation.

- (b) These Allowances are for use only at the Owner's discretion for the Work above and beyond that which is shown, delineated and/or quantified elsewhere in the Contract Documents.
- (c) The type of Work described in the Schedule of Allowances is identical to Work described elsewhere in the Contract Documents and the full requirements of the Contract Documents apply to the applicable Work described in the Schedule of Allowances.

4. Unit Prices

- (a) Unit Prices include all necessary materials and labor, plus cost for delivery, freight installation, insurance, applicable taxes, overhead, and profit.
- (b) The unit price provided by the Contractor shall be used for Work added or deducted to the Contract at the Owner's discretion and the unit price shall remain effective throughout the life of the Contract.

5. Preferred Brand/Vendor Alternates

- (a) Refer to Bid specification section 012300 "Alternates" for specific brand/vendor alternate requirements. See below for the general list:
 - 1. Preferred-Brand Alternate No. 1: Door Cylinders and Locks by Schlage
 - 2. Preferred-Brand Alternate No. 2: Door Closers by Sargent
 - 3. Preferred-Brand Alternate No. 3: Door Overhead Stops by Sargent

E. Minority Business Enterprises (MBE) and HUB Requirements

- 1. Bidders MUST include with their Form of Proposal the identification of Minority Business Participation Sheet AND Affidavit A or B.
 - (a) Affidavit A – List of Good Faith Efforts
 - 1. Review Affidavit A for actions that will constitute a good faith effort to employ MBEs. 10 points for attendance at pre-bid. Maintain detailed records of your efforts – low bidder must submit complete documentation within 72 hours of notification and after Bid closing.
 - (b) Affidavit B – Intent to Self-Perform (only if intent is to hire no subcontractors).
 - (c) Failure to include these documents with the bid is grounds for rejection of the Bid.
- 2. List all subs, vendors and suppliers that you will employ on the Identification form. List the total dollar amount of participation. List \$0 if none. "TBD" is considered incomplete.
- 3. Shaun Mizelle from TOC clarified that all MBE selections must also be HUB certified. Shaun stated that he would be happy to assist in locating eligible vendors if there is any trouble locating.
- 4. Shaun Mizelle from TOC stated that the MBE selections aim for a goal of 10% of the total construction price, however if a good effort is made, not acquiring the full 10% would not disqualify a bidder. If there was good effort made, the bidder must show proof via emails or other means that efforts were made to reach out to MBE vendors through the form Affidavit C.

F. Qualification and Award of Contract

- 1. Bidders must hold proper Bidder's state or other contractor License. A photocopy must be provided with the bid.
- 2. Contract will be awarded to the lowest responsive and responsible bidder.
 - (a) Responsive = a complete Form of Proposal and conformance to Bidding Requirements.

- (b) Responsible = capable to perform all requirements, meet schedule, quality of performance on previous jobs.

G. Prior to Award of Contract, the Owner may request that the successful low bidder:

- 1. Submit a Statement of Work to be performed by his own forces.
- 2. Demonstrate capable labor force and experience required to coordinate and perform the Work.

H. Upon Notice of Award, the successful bidder must submit:

- 1. Liability Insurance, Property Insurance / Builder's Risk and Worker's Compensation.
- 2. Performance and Payment Bonds are required for this project.

I. Scope of Work

- 1. Architectural Scope: Demolition and renovation of interior library spaces, including interior walls, doors, frames, hardware, interior storefront, glazing, interior finishes, architectural casework, signage, toilet compartments, and window blinds.
- 2. MEP Scope: The work includes plumbing and fixtures, HVAC and controls, electrical and fixtures, telephone/data raceway, security components and cabling, and audio-visual components and cabling.

J. Carefully examine conditions

- 1. Examine all Contract Documents, including Addenda. A site visit of the facility will be available after this Pre-Bid Meeting.
- 2. Examine existing building and site during site tour. Contact Patrick Lechner at 919-553-5002 EXT 6531/plechner@townofclaytonnc.org for additional site visits. This is a public building; Bidders are welcome to visit the site during regular business hours, however bidders will need to schedule a visit with Patrick Lechner to gain access to staff and back of house areas.
- 3. Hazardous Materials:
 - (a) No known hazardous materials were found on site. Refer to the Asbestos Report conducted by Matrix that was provided for reference in the Bid Document.
- 4. The library will be closed and relocated to a temporary location. Owner is responsible for moving items prior to construction starting.
 - (a) Office Hours for the Library are as follows:
 - 1. Monday -Thursday: 9 am – 7 pm
 - 2. Friday: 9 am – 5 pm
 - 3. Saturday: 9 am- 2 pm

K. Overview of General Requirements

- 1. Safety Regulations:
 - (a) Contractors shall familiarize themselves with Article 5 Item 5.05 of the General Conditions.
- 2. Work Restrictions:
 - (a) Work hours

1. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all

Work at the Site will be performed during regular working hours, Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m.. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or Town of Clayton recognized holiday per the adopted holiday schedule only with Owner's written consent, which will not be unreasonably withheld.

(b) See Project Manual for additional Work Restrictions.

(c) Smoking is prohibited at the construction site.

3. Temporary Facilities:

- (a) Protection of existing facilities.
- (b) Field office.
- (c) Toilets.
- (d) Wireless internet.
- (e) Contractor parking and staging.
- (f) See Project Manual for additional Temporary Facilities.

4. FF&E

- (a) All furniture will be provided by the Owner.
- (b) Some FFE Items are OPCI (owner provided, contractor installed.) Refer to Bid Documents for specific FFE Items.

L. Permitting Status

1. The construction drawings were submitted for permitting and approved. The drawings are pending payment and pickup. Bidder to include this cost within the base bid.
 - (a) Chris Gallant with TOC stated that bidders can call the permitting office and inquire about the costs for the permitting drawings.

M. Questions and Answers.

1. There are two agreements within the project manual, which one should the bidder follow?
 - TOC and DKA stated they will clarify within Addendum 1.
2. Are federal funds being used for this project?
 - No, this is not a federal project. All funds come from a local level.
3. Is an office trailer required on site or can the office space be set up within the existing building?
 - An office trailer is not required, an office space can be set up within the existing building. This will be addressed in Addendum 1.
4. Will there need to be a porta-a-john on site for workers?
 - Yes, as the plumbing is being demolished and replaced. This will be addressed in Addendum 1.
5. There is \$250,000 for furniture to be provided by the owner, does this need to be included under the Builder's Risk insurance?

- This will be addressed in Addendum 1.

N. Site tour at the Project Site.

END OF MEETING MINUTES



DAVIS KANE
ARCHITECTS, PA

PROJECT # 2415

PROJECT NAME Hocutt-Ellington Library Renovation

DATE 4/8/2025

HOCUTT-ELLINGTON LIBRARY RENOVATION ~~PH~~ BID

Chad Volk - Davis Kane Architects cvolk@daviskane.com

Brittany Gagne - Davis Kane Architects bgagne@daviskane.com

Chris Callant - Town of Clayton ccallant@townofclaytonnc.org

MIKE LUTZ - 35 NORTH MLUTZ@35N.COM

Mark Ferris ACH Constructors MarkFeACHConstructors.com
Craig Wood Town of Clayton CWood@townofclaytonnc.org

Tim Cothran Riggs-Harrod tcothran@riggsharrod.com

GUS MIXON Salisbury & Moore gus.mixon@salisburymoore.com

Kyle Antlock SAUSURY & MOORE Kyle.Antlock@salisburymoore.com

PICK JONES DEWBERRY SRJONES@DEWBERRY.COM

DENIS PRICE MCB DPRICE@MCBIND.COM

SHAWN RATHBUND MCB

Rob Malleson v.malleson@shepherd-response.com Shepherd Response

ANDY WOOD DIAMOND CONTRACTING Andy@DIAMONDContracting.com

LEE KING VORTEX CONSTRUCTION TKING@VORTEXCONSTRUCTION.HGT

Samuel Ly Shepherd Response LLC sam@shepherd-response.com

Gregg

Jesse Wills Berry Building Group jwills@berrybg.com

Gabe Henry CATE Services ghenry@cateSvc.com

Tabb Connor Brookwood Construction tabb@brookwood-construction.com

Donnie Kimbrell Bear Wire LLC bearwirellc@gmail.com

JOEY AMBROSE FOSS DEMO SAmbrose@fossdemo.com

BID REGISTER



DAVIS KANE
ARCHITECTS, PA
503 Oberlin Road | Suite 300
Raleigh, NC 27605 | 919.833.3737

Project Contact: Chad Volk

Email: cvolk@daviskane.com

Project:	Hocutt-Ellington Library Renovation
Owner:	Town of Clayton
Owner ID No:	700-ENG-2025-12
DKA Project No:	2415
Bid Due Date & Time:	04/29/25 at 2:00 pm
Bid Receiving Location:	Town of Clayton Town Hall located at 111 E. Second St. Clayton, NC 27520
PreBid Mtg Date & Location:	04/08/25 at 10:00am at Clayton Town Hall, 111 E. Second St. Clayton, NC 27520

BID TYPE: _____ INVITED _____ PREQUALIFICATION _____ X OPEN

ADDENDA DATES: 1. 4/10/25 2. _____ 3. _____ 4. _____ 5. _____

ADDENDA:					RECIPIENT	REC'D BID DOCUMENTS VIA?		BIDDING AS A GC?	ATTENDED PREBID?
1	2	3	4	5		Y/N	EMAIL / SHARE FILE	Y/N	Y/N
X	X	X	X	X	Company Name Company Address Contact Name PH: XXX-XXX-XXXX EMAIL: XXXXXXXXXXXX@XXXXXX.COM	Y/N	EMAIL / SHARE FILE	Y/N	Y/N
					Maybridge Development <u>Mark Santos</u> 910-551-9498 mark@maybridge.com	Y		Y	N
					LLDC Inc. <u>David Locklear</u> 910-485-6002 dl@lldrywall-construction.com	Y		Y	N
					Diamond Contracting <u>Andy Wood; Bryan Wolfe</u> byran@diamondcontracting.com 919-868-1955 andy@diamondcontracting.com	Y		Y	Y
					Vortex Construction Co., LLC <u>Tracey King, Lee King</u> 9198682450 tking@vortexconstruction.net	Y		Y	Y
					Riggs-Harrod Builders, Inc. <u>Tim Cothran</u> 919-687-0111 tcothran@riggsharrod.com	Y		Y	Y
					Berry Building Group, Inc <u>Jason Knoernschild, Jesse Wells</u> 9198104120 jasonk@berrybg.com	Y		Y	Y

				Dewberry Design-Builders Inc. Alysen Marie Nassif, Rick Jones 9194243772 anassif@dewberry.com	Y		Y	Y
				Shepherd Response LLC Sambau Ly; Rob Mallard 9196029582 sam@shepherd-response.com	Y		Y	Y
				R.L. Pullen & Associates, Inc. Daniel Pullen 919-247-2663 daniel@rlpullen.com	Y		Y	N
				Salisbury & Moore Construction Gus Mixon; Kyle Annlock 9197301238 gus.mixon@salisburymoore.com	Y		Y	Y
				ACH Constructors, LLC Mark Ferris 919-484-9550 MarkF@ACHConstructors.com	Y		Y	Y
				JD Beam Tim Manning 919-755-7560 timm@jdbeam.com	Y		Y	N
				35 North Mike Lutz 2526220668 mlutz@35n.com	Y		Y	Y
				Muter Construction Jake Bowman 9193751135 jbowman@muterconstruction.com	Y		Y	N
				Focus Design Builders John Graham 9198166422 jgraham@focusdesignbuilders.com	Y		Y	N
				Brookwood Construction Patrick Bur; Tabb Connor 3015032737 patrick@brookwood-construction.com	Y		Y	Y
				CATE Services and Construction Gabriel Henry 9105272552 ghenry@catesvc.com	Y		Y	Y
				DSW Homes, LLC Devon Littlefield 4097443400 devon.littlefield@dswhomes.com	Y		Y	N
				Plank Construction Sany Bezerra 252-341-3637 operations@plank-construction.com	Y		Y	N
				Quality Builders Inc. Joel Raper 919.821.9001 joelr@qbiraileigh.com	Y		Y	N

					The Innovative Contracting Group	Y		Y	N
					Karina Morel 743.255.2128 kmorel@icg-usa.com	Y		Y	N
					MLB Construction Services Denis Price; Shauna Raymond 919.387.4647 dprice@mlbind.com	Y		Y	N

Comprehensive List of Fees and Charges

Effective July 1, 2024 (Adopted 5/20/24)



Taxes & Fees

Town of Clayton Tax Rate	\$0.65 / \$100 valuation of property
Vehicle Fee (pursuant to NCGS 20-97 (b1))	\$30 / vehicle

Document/Copy/Administrative Fees

Copying up to 11'x17' (black & white)	\$0.10 / sheet
Town meeting(s) audio or documents	\$1.50 / storage device provided
Certified copy of Town records	In accordance with NCGS 161-10(9)
Paper Copy of Agenda	\$10 (annually) Email free
Filing Fee for Office of Council Member	\$5
Filing Fee for Office of Mayor	\$10

Cemetery Fees

Lot Purchase - including footstone	\$1,200
Interment - Monday through Saturday	\$900
Interment - Sundays and Holidays*	\$1,200
Footstone Marker and Installation	\$200
Cremains Interment - Monday through Saturday	\$600
Cremains Interment - Sundays and Holidays*	\$900

*Excludes New Year's Day, Good Friday, Easter Sunday, Thanksgiving Day, Christmas Eve, and Christmas Day

Customer Deposits

Residential Electric	\$250 / \$800 (high risk)
Residential Water	\$50 / \$120 (high risk)
Residential Sewer	\$50 / \$120 (high risk)
Residential Irrigation	\$50 / \$120 (high risk)
Non-residential Electric	2.5 times average bill for location or comparable use
Non-residential Water	2.5 times average bill for location or comparable use.
Non-residential Sewer	2.5 times average bill for location or comparable use.
Non-residential Irrigation	2.5 times average bill for location or comparable use

Customer Fees

Connection Fee	\$25
Returned Check/Draft Fee	\$25
Non-Payment Penalty	\$50
Late fee for charges unpaid by due date	5%
Bucket Truck Mobilization Fee	\$500
Electric Meter Test Fee	\$100 if no issues found with the meter

Solid Waste Fees

Solid Waste Collection	\$24.00 per month
Extra Garbage Cart	\$4.18 / month
Extra Recycling Cart	\$3.17 / month

Water & Sewer Utility Rates

Water

Base Rates			
Meter Size:	In Town		Out of Town
5/8' Meter	\$23.32		\$28.59
3/4" Meter	\$33.88		\$41.78
1" Meter	\$54.99		\$68.18

1.5" Meter	\$107.74	\$134.12
2" Meter	\$171.05	\$213.25
3" Meter	\$318.78	\$397.91
4" Meter	\$529.80	\$661.69
6" Meter	\$1,057.39	\$1,321.18
8" Meter	\$1,690.47	\$2,112.54
10" Meter	\$2,429.09	\$3,035.81

Non-Irrigation

Commodity Rates

Residential:	In Town	Out of Town
Block 1: 0 - 2,000 Gallons	\$5.49	\$6.88
Block 2: 2,001 - 4,000 Gallons	\$5.78	\$7.23
Block 3: 4,001 - 6,000 Gallons	\$6.06	\$7.57
Block 4: All Gallons > 6,000	\$6.62	\$8.26
Commercial:		
Block 1: 0 - 100,000 Gallons	\$6.15	\$7.69
Block 2: All Gallons > 100,000	\$7.07	\$8.84
Industrial:		
Block 1: 0 - 100,000 Gallons	\$6.25	\$7.79
Block 2: All Gallons > 100,000	\$7.18	\$8.97

Irrigation

Commodity Rates

Residential:	In Town	Out of Town
Block 1: 0 - 8,000 Gallons	\$8.55	\$8.55
Block 2: 8,001 - 16,000 Gallons	\$10.66	\$10.66
Block 3: All Gallons > 16,000	\$13.11	\$13.11
Non-Residential		
Block 1: 0 - 50,000 Gallons	\$6.94	\$6.94
Block 2: 50,001 to 100,000 Gallons	\$9.57	\$9.57
Block 3: All Gallons > 100,000	\$11.26	\$11.26

Sewer

Base Rates

Meter Size:	In Town	Out of Town
5/8' Meter	\$38.70	\$48.39
3/4" Meter	\$58.07	\$72.58
1" Meter	\$96.76	\$120.97
1.5" Meter	\$193.55	\$241.93
2" Meter	\$309.69	\$387.13
3" Meter	\$580.67	\$725.82
4" Meter	\$967.75	\$1,209.71
6" Meter	\$1,935.55	\$2,419.44
8" Meter	\$3,096.87	\$3,871.10
10" Meter	\$4,451.75	\$5,564.67
12" Meter	\$10,256.63	\$12,821.70

Commodity Rates:

All usage (per 1,000 gallons)	\$12.45	\$15.58
Flat Rate Sewer - No Meter:	\$76.18	\$95.24

Water & Sewer - Bulk

Monthly Commodity Rates (Water):	\$6.00 / 1,000 gallons
High Strength Surcharge (Sewer):	
Biochemical Oxygen Demand (BOD)	\$0.355 / pound for concentration in excess of 250 mg/liter
Total Suspended Solids (TSS)	\$0.13 / pound for concentration in excess of 250 mg/liter
Ammonia Nitrogen (NH3-N)	\$1.75 / pound for concentration in excess of 20 mg/liter
Total Dissolved Solids	\$0.60 / pound for all flow in excess of 3,500 mg/liter
Industrial High Strength Surcharge	\$4.00 / 1,000 gallons
Bulk Water Filling Station Usage:	

Base rate	\$10
Minimum charge (less than 1,000 gallons)	\$5.25
Above 1,000 gallons	\$6.00 / 1,000 gallons
Hydrant Meter Assemble Rental:	
Deposit	\$1,500 (Refundable: Deposit refunds can take up to 30 days for processing pending damages)
Rental Fee	\$350 / month
Hydrant Meter Set-Up Fee (initial or relocation)	\$75
Hydrant Meter Reading Fee	\$35
Town Adaptation/modificaion visit fee	\$15
Hydrant Meter Damage Fee	\$55 (in addition to replacement parts)
Hydrant Meter Bill Late Payment Charge	5%
Consumption Rate	\$15 + \$8.00 / 1,000 gallons
Adapter Fee	\$25 / month

Electric Utility Rates	
Residential	
Monthly Base Charges:	
Single Phase Service	\$21.00
Three Phase Service	\$24.00
Monthly Energy Charge:	\$0.13450 / kWh

Institutional	
Monthly Base Charge:	\$45.00
Monthly Energy Charge:	\$0.15440 / kWh for first 600 kWh
	\$0.13460 / kWh for next 1,900 kWh
	\$0.11780 / kWh for all additional kWh

Small General Service	
Monthly Base Charge:	\$33.00
Monthly Demand Charge:	\$0.15000 / kWh for the first 750 kWh*
	\$0.15000 / kWh for the next 2,000 kWh
	\$0.09950 / kWh for the additional kWh
*When the kW of billing demand exceeds 5kW, add into the first block 150 kWh for each additional kW of excess.	

Medium General Service	
Monthly Base Charges:	\$45.00
Monthly Demand Charges:	\$12.50 / kWh
Monthly Energy Charge:	\$0.08220 / kWh

Large General Service*	
Monthly Base Charge:	\$250.00
Monthly Demand Charge:	
CP Demand	\$21.20 / CP kW
Excess Demand	\$1.736 / kW
Monthly Energy Charge:	\$0.06100 / kWh

*No existing customers

Coincident Peak (CP)	
Monthly Base Charge:	\$250.00
Monthly Demand Charge:	
CP Demand	\$22.00 / CP kW
Excess Demand	\$5.39/ kW
Monthly Energy Charge:	\$0.05900 / kWh

Town Facilities	
Monthly Base Charge:	\$15.50
Monthly Energy Charge:	\$0.09650 / kWh

Time Of Use	
Monthly Base Charge:	\$250.00
Monthly Demand Charge:	\$21.20 / kW
Monthly Energy Charge:	\$0.06100 / kWh

Area Lighting	
Monthly Rate Per Lighting Unit:	
Residential Unit	\$13.83
Small Commercial Unit	\$18.34
Large Commercial Unit	\$41.86
Underground Charge	\$5.56
Monthly Rate Per Pole Type:	
Wooden	\$3.47
Decorative	\$7.63
Monthly Energy Charge:	\$0.09680 / kWh

Electric Department	
Residential Electric Meter	Cost of Meter + 10%
Small Commercial Meter	Cost of Meter + 10%
Large Commercial Meter	Cost of Meter + 10%
Underground Electric Fee	\$1,000 + \$5.00 per foot>120 feet
Solar Panel Permit Application	\$250
Temporary Electrical Service Install	\$175

Public Works					
Water & Sewer Taps & Water & Sewer / Electric Meter Fees					
** Cost for an applicable boring or non-typical installation requirements (Actual Cost + 10%)					
Single Residential Lots Only (Not Part of a Subdivision Plan)					
Service/Meter	Base Cost	Street Cut	Concrete Cut	Meter Only	Permit Fee
3/4 & 5/8 Inch Water	\$2,500	\$1,000	\$1,000	Cost of Meter + End Point + 10%	N/A
1 Inch Water	\$3,000	\$1,000	\$1,000	Cost of Meter + End Point + 10%	N/A
1/2 & 2 inch Water	\$3,600	\$1,000	\$1,000	Cost of Meter + End Point + 10%	N/A
4 Inch Sewer	\$4,800	\$1,000	\$1,000	N/A	N/A
Irrigation Split	\$750	N/A	N/A	N/A	N/A
Relocate Meter Box *For service adjustments within 30" of tap location. Greater than 30" will require a new tap.	\$750	N/A	N/A	N/A	N/A
Residential Electric	N/A	N/A	N/A	Cost of Meter + 10%	N/A
Small Commercial Electric	N/A	N/A	N/A	Cost of Meter + 10%	N/A
Large Commercial Electric	N/A	N/A	N/A	Cost of Meter + 10%	N/A

System Development Fees				
Water Meter Testing:	Labor Cost + 10%			
Water Quality Sampling:	Labor Cost + Lab Fee + 10%			
Hydrant Flow Test Witness Fee:	\$150 per hydrant			
FOG Inspection:	\$25			
Service/Meter Size	Water	Sewer	Total	New & Existing users expanding usage requiring meters greater than 2.0 inch require a Developer's Agreement.
5/8 inch	\$3,265	\$5,935	\$9,200	
3/4 inch	\$4,898	\$8,903	\$13,800	
1.0 inch	\$8,163	\$14,838	\$23,000	
1.5 inch	\$16,325	\$29,675	\$46,000	Water = \$8.00 per gallon per day (GPD)
2.0 inch	\$26,120	\$47,480	\$73,600	Sewer = \$20.00 per gallon per day (GPD)

Nutrient Offset Fees	
Residential Tap	\$450/ Tap
Non Residential Tap	\$0.005 / gallon of annual wastewater capacity

Planning Department	
Public Notices Fees	
Mailed Notice	\$1.00 per Mailed Notice
Public Notice Signs	\$20 per Posted Sign
Development Submittal Fees	
Determination	\$200
Development Agreement	\$1,000
Fee-in-Lieu Request (By Applicant)	\$300
Limited Subdivision	\$250
Street Renaming/Closure	\$300
Temporary Permit	\$100
After-the-Fact Temporary Permit	\$200
Vested Rights Certificate	\$300
Administrative Adjustment	\$150/Adjustment
Uniform Sign Plan	\$150
Re-Advertisement	\$200
Appeal	\$350
Annexation	\$300
Urban Archery Hunting Permit	\$50
Major Subdivision/Conservation Subdivision	\$500 + \$15 / acre
Minor Subdivision (<5 lots)	\$300 + \$15 / acre
Conditional Zoning, Unlimited with Associated Concept Plan	\$1,000 + \$5 / acre
Small Cell Wireless	\$100 ea for first 5 facilities, \$50 ea additional
Zoning Compliance Inspection/Re-Inspection	\$150
Resubmittal Fee	4th and each subsequent submittal - 1/2 the cost of the original submittal fee
Exempt Subdivision	\$150
Final Plat Review	\$300 + \$15 / acre
Rezoning	\$750 + \$10 / acre
Conditional Rezoning, Limited Use and Limited Standard	\$750 + \$10 / acre
Alternative Sign Plan	\$300
Sign - Permanent	\$75 + \$5 / additional sign
Sign - Temporary	\$50
After-the-Fact Sign Permit	\$150 + \$10 / additional sign
Minor Modification	\$250
Site Plan	\$500 + \$15 / acre
Special Use Permit	\$750
Temporary Use / Special Event	\$100
After-the-Fact Temporary Use/Special Event Permit	\$200
Tree Clearing Certificate	\$250
Variance Application	\$500 (\$1,000 after the fact)
Zoning Compliance	\$100
Zoning Verification	\$100
Family Health Care Structure	Initial Permit (Good for 1 Year): \$100 Annual Renewal Fee (Due every year starting with Year 2): \$50
Code Enforcement	
Civil Penalty for Violations of Unified Development Ordinance	First Notice of Violation \$50; Second and Subsequent Notices of Violation - \$100 (each day violation continues)
Tall Grass and Overgrowth	
0 to .25 acres	\$150 + \$100 Admin Fee
.26 to .50 acres	\$200 + \$100 Admin Fee
> 1.00 acres	\$250 + \$100 Admin Fee
Private Property Clean Up	Amount Billed by Contractor + \$100 Admin Fee

Copies & Maps	
Copy < 11" x 17" (Black & White)	\$0.10
Copy > 11" x 17" (Black & White)	\$1
Copy < 11" x 17" (Color)	\$0.40
Copy > 11" x 17" (Color)	\$5
Map 18" x 24"	\$10
Map 24" x 36"	\$20
Map 36" x 48"	\$30

Consultant Review Fees	
Tower Review, New Structure, One Related Meeting	\$5,000
Tower Review, New Structure, Two Related Meetings	\$6,500
Tower Review, Co-Location/Mod/Upgrade	\$1,000
Traffic Assessment	\$350

Recreation & Open Space Fees	
Land Development Projects Subject to U.D.O. Section 6.7.2	(Number of residential lot or principal dwelling units) x (1,244 square feet of land) x (Pre-Development cost per acre based on County Assessor Data)

Building Inspections	
Plan Review Fee - Initial Review	Commercial Projects 0-25,000' = \$250, over 25,000' = \$500
Plan Review Fee - Permit Cancelled or Not Picked up/Issued	\$100
Plan Review Fee - Subsequent Reviews (ea)	\$150

New Dwelling (Single):	
Up to 1,200 sq. ft.	\$600 / dwelling
> 1,200 sq. ft.	\$600 + \$0.30 / sq. ft.

Residential - Additions/Remodel:	
0 - 400 sq. ft.	\$300
> 400 sq. ft.	\$300 + \$0.30/sq. ft.
Additional per trade	\$75

Multi-Family Dwelling Duplex/Triplex	
Up to 3 units	\$600 + \$0.30/sq ft > 1,200 sq ft
Each additional unit	\$200

Mobile Homes	
Single-Wide (Building Only)	\$250
Double - Wide (Building Only)	\$275
Triple - Wide (Building Only)	\$300
Quad - Wide (Building Only)	\$325
Travel Trailers / Campers	\$75
Poured Footing Inspection	\$75
Mechanical Permit Fee	\$75
Electrical Permit Fee	\$75
Plumbing Permit Fee	\$75

Dwelling Moved On	
Fee	\$250
Trade Fee	\$75

Residential Accessory Building (over 12'x12')	
Storage Building	\$75

Garage / Carport	\$100
Deck / Porch/ Gazebo	\$75 + \$0.30/sf for > 144 sf
Additional trade	\$75

Trade Inspections	
Building, Electrical, Plumbing and Mechanical	\$75

Farm Buildings	
Qualified Farm Building	\$0
Electrical Permit Fee	\$75

Permit Fee for Commercial Buildings (Based on cost per trade)	
\$0 - \$2,500	Trade fee (Minimum \$75)
\$2,501 - \$25,000	\$375
\$25,001 - \$50,000	\$675
\$50,001 - \$100,000	\$1,275
\$100,001 - \$200,000	\$2,175
\$200,001 - \$350,000	\$3,750
\$350,001 - \$500,000	\$4,750
\$500,001 - \$750,000	\$6,750
\$750,001 - \$1,000,000	\$8,750
>\$1,000,000	\$8,750 + 0.2% for every dollar over \$1,000,000

Re-Inspection Fees	
First Re-Inspection	\$100 (per trade)
Additional Re-Inspection of Same Item	\$200 2nd trip, \$300 3rd trip, \$400 4th trip (+\$100 each additional trip thereafter)
Same Day Inspection Cancellation (Non Weather Related)	\$200
Not Ready at Time of Inspection (No Inspection)	\$200
Commercial After Hours (Requires Special Approval)	\$200/hour (3 hour minimum)
Residential After Hours (Requires Special Approval)	\$100/hour (3 hour minimum)
Day Care Re-Certification	\$100
ABC Permit Form	\$150

Expired Permit Reissue	
Work Started / Code Changes	Original fee x 50%
No Work Started / No Code Changes	\$150
Re-Review, Lost Plans / Update	\$150

Service Pole Inspections	
Electrical (\$1 Building if no permit exists)	\$75

Update for Permits	
Contractor Change (Ord. 2017-09-01)	\$50

Service Change Inspections	
Conditional Service (Ord. 2017-09-01)	\$75
Building	\$1
Electrical	\$75

Sign	
Building	\$75
Electrical	\$75

Swimming Pools	
Building	\$75
Electrical	\$75

Pedestals	
Building	\$1
Electrical	\$75

LP Gas Tanks	
Building	\$50
Electrical	\$75

Tents (Per Building over 240 sq. ft.)	\$75
ATM	Commercial Rate

Conditional Power/Gas - Single Family	\$75 each
90 Day Temp Power - New Construction Residential	\$75 each
Conditional Power/Gas - Multi Family	\$75 first meter, \$50 each additional
90 Day Temp Power - Commercial	\$150

Reconnect Power - Building	\$1
Reconnect Power - Electrical	\$75

Demolition - Residential	\$50 + asbestos report
Demolition - Commercial	\$150
Sprinkler System	Commercial Rate

Penalty	
For work started before proper permitting is obtained, a penalty of one-half the cost of the permit(s) that should have been obtained shall apply. GS 160A-414.	
Irrigation of New Landscape	\$75
One Time Extension - Irrigation New Landscape	\$50

Engineering Department	
Review Fees	
Construction Plan (Subdivision)	\$750 + \$35 per lot
Construction Plan Resubmittal	\$625
Construction Plan (Sites)	\$750 + \$40 per acre
Planning & Engineering Combo Review Fee (Subdivision) – 4 Reviews	\$1,800 + \$35 per lot
Planning & Engineering Combo Review Fee (Sites) – 4 Reviews	\$1,800 + \$20/lot + \$40/acre
Construction Plan (Infrastructure Only)	\$750 + \$40/acre
Alternative Standard Request	\$625
Construction Plan Revisions	\$500 + \$10 per sheet
Pump Station CD Review	\$350 plus cost of third party consultant review fee
Pump Station Review – Resubmittal	\$200 plus cost of third party review consultant
Special Study (Flood, Traffic Calming, etc.)	\$350 + Cost of Consultant
Floodplain MGMT Document Review (LOMR, CLOMR, etc.)	\$300 per form
Record Drawing (Infrastructure/Stormwater)	\$625
Record Drawing Resubmittal	\$350
Bond Administration Fee (Surety/Letter of Credit)	\$250
Bond Administration Fee (Cash/Check)	\$250
Bond Administration Fee (Amendment/Reduction)	\$125
Encroachment Agreement Application	\$500

Water Extension Permit Application (all forms)	\$325
Sewer Extension Permit Application (all forms)	\$325
Water and/or Sewer Extension Permit Amendment	\$175
Wastewater Allocation Requests	\$500
Right-of-Way Closure Application / Processing Fee	\$250/\$350
Planning & Engineering Combo Resubmittal Fee	\$750
Planning/Engineering Development Submittal Technology Fee Surcharge	\$4.00 per application for inspection \$10.00 per application for planning and engineering

Inspection Fees	
New Public Streets	\$2.00 per linear foot
Curb and Gutter (new and replacement)	\$1.00 per linear foot
Application for Acceptance of Public Infrastructure – Utilities	\$500
Acceptance of Public Infrastructure – Right-of-Way	\$500
Acceptance of Public Infrastructure - Reinspection	\$100
Pump Station	\$1,500
Water System Extensions	\$1.50 per linear foot
Pump Station	\$1,500
Stormwater SCM Inspection	\$500
Sanitary Sewer System Extensions	\$1.50 per linear foot
Storm Drainage (Public and Private)	\$1.00 per linear foot
Greenways & Sidewalks	\$1.00 per linear foot
Residential Driveway – Initial	\$100
Residential Driveway – Reinspection	\$75
Fire Lanes	\$2.00 per linear foot
Sanitary Sewer Taps (not performed by Town)	\$150
Water Taps (not performed by Town)	\$150
Fee-in-lieu Admin Fee	\$150
Reinspection Fee-Linear Footage Inspections	\$100
Major Encroachment Inspection	\$1.00 per linear feet of right of way impacted

Stormwater/Erosion Control	
All Stormwater and Erosion Control Fees include 2 Reviews, unless otherwise noted	
All Erosion Control Fees are rounded up to the next acre	
Erosion Control Plan Review	\$300 per acre
Erosion Control Plan Review Resubmittal	\$200 per acre
Erosion Control Plan Review Revision	\$150 per acre
Land Disturbance Permit – Initial (valid for 2 years)	\$200 per acre
Land Disturbance Permit Renewal (valid for 1 year)	\$150 per acre
Erosion Control Permit – Single lot	\$200
Stormwater Plan Review - up to 7 acres	\$600 per acre
Stormwater Plan Review - greater than 7 acres	\$4,200 + \$150 per acre
Stormwater Plan Review Plan Review Resubmittal	\$500 + \$100 per acre
Stormwater Plan Review Revision	\$500 + \$10 per sheet
Stormwater Permit	\$500 per acre

Stormwater Permit Revision	\$500 + \$10 per sheet
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Police Department	
Accident Report	\$3*
Incident Report - Public Copies Only	\$3*
*If more than one copy of a report is needed, the first copy will be \$3.00, and any additional copies will be \$1.00	
Fingerprinting	\$17**
**Payment must be made online when appointment is scheduled	
Burglary False Alarms (Residential and Commercial)	\$50 per occurrence***
***No charge for 1st false alarm per month if alarm is registered	
Animal Service Penalty Fees:	
Animal Cruelty	\$500 per offense, per animal
Dangerous Dogs	\$500 per offense, per animal
All Other Violations, including leash law violations:	
-First Notice of Violation	\$100
-Second Notice of Violation	\$200
-Third and Subsequent Notice of Violation(s)	\$300

Fire Department	
Fire Inspection Fees	
Up to 3,000 sq. ft	no fee
3,001 - 5,000 sq. ft.	\$75
5,001 - 10,000 sq. ft.	\$150
10,001 - 25,000 sq. ft.	\$375
25,001 - 50,000 sq. ft.	\$500
50,001 - 100,000 sq. ft.	\$625
100,001 - 500,000 sq. ft.	\$750
500,001 sq. ft. or greater	\$0.15 per sq. ft.
Re-Inspection Fees	
First Re-Inspection	\$75
Second Reinspection	\$150
Third Reinspection	\$225
Fourth Reinspection, etc.	\$300

Miscellaneous	
Blasting Permit Application	\$200
Special Standby Operations	
Engine	\$100 / hour (one hour minimum)
Personnel	\$22.50 / hour (one hour minimum)
Hazmat Emergency Response Charges	
Engine, Tanker or Ladder Truck	\$250 / hour
Support Vehicles	\$50 / hour
All Responding Personnel	1.5 x hourly rate of pay
Materials Used	Replacement cost + 10%
Materials Damaged	Replacement cost + 10%
First False Alarm in Month	\$0
Subsequent False Alarms in Month	\$100 each

Recreation Department		
Athletics		
(Base fees listed below are calculated using market comparisons)		
Youth Sports (Officiated - O, and Unofficiated - U)	Resident Fee	Non-Resident Fee
Winter Basketball (O)	Range \$30-\$80	Range \$30-\$80 plus 50%
Spring Baseball (O)	Range \$30-\$80	Range \$30-\$80 plus 50%
Spring Softball (O)	Range \$30-\$80	Range \$30-\$80 plus 50%
Fall Volleyball (O)	Range \$30-\$80	Range \$30-\$80 plus 50%

Fall Softball (O)	Range \$30-\$80	Range \$30-\$80 plus 50%
Spring T-Ball (U)	Range \$30-\$80	Range \$30-\$80 plus 50%
Fall Soccer (U)	Range \$30-\$80	Range \$30-\$80 plus 50%

Adult Sports	Team Fee	Non-Resident Fee
Softball	\$600	\$25
Soccer	\$600	\$25
Basketball	\$600	\$25
Volleyball	\$600	\$25
Flag Football	\$600	\$25
Resident's Fees included in Team Fees		

Programs		
Classes	Resident Fee	Non-Resident Fee
Class fees vary according to the type of class, cost of the facility, instructor and number of participants	Range \$2-\$150	Range \$2-\$150 plus 50%

Facility Rentals*		
Community Center Gym	Resident Fee	Non-Resident Fee
Full Court	\$60 / hour	\$120 / hour
Half Court	\$35 / hour	\$70 / hour
Scoreboard	\$10 / hour	\$20 / hour
Tennis Courts	\$5 / hour	\$10 / hour
Ballfields		
Community Park Field #1	\$20 / hour	\$40 / hour
Community Park Field #2	\$20 / hour	\$40 / hour
Community Park Field #3	\$20 / hour	\$40 / hour
Municipal Park	\$20 / hour	\$40 / hour
East Clayton Community Park Baseball Field	\$25 / hour	\$50 / hour
East Clayton Community Park Soccer Field	\$50 / hour	\$100 / hour
East Clayton Community Park Multipurpose – Field 1 or 2	\$75 / hour	\$150 / hour
East Clayton Community Park Multipurpose – Field 1 and 2	\$150 / hour	\$300 / hour
CHS Football - Artificial Turf	\$100 / hour	\$200 / hour
CHS Soccer	\$75 / hour	\$150 / hour
CHS Baseball	\$50 / hour	\$100 / hour
CHS Softball	\$40 / hour	\$80 / hour
Field Rental Add Ons		
Lights (Community)	\$20 / hour	
Lights (East Clayton Soccer & Baseball)	\$20 / hour	
Lights - CHS Softball	\$30 / hour	
Lights - CHS Baseball	\$40 / hour	
Lights - CHS Soccer	\$40 / hour	
Lights - CHS Football	\$50 / hour	
Baseball / Softball Field Prep (All Fields)	\$30 / hour	
East Clayton Soccer Field Paint - In Season	Included	

Soccer Field Paint - Off Season (Lacrosse/Rugby)	\$200
Football Field Paint	\$350
Seven vs. Seven Soccer or Smaller	\$150
Tournament Field Rentals & Add Ons	
Community Park - Full Day	\$250 / field / day
Community Park - Half Day	\$125 / field / day
East Clayton - Baseball	\$350 / day

Additional Field Prep	\$30 / field
Scoreboard	\$25 / field / day
Drying Agents	\$10 / bag
Admission Fee to Town	\$50 / day
Concessions	Only CPRD Allowed
Other Vendors (Non-Food)	\$50 / vendor / weekend

Picnic Shelters (Per 4-hour block)	Resident Fee	Non-Resident Fee
All Star Park	\$32	\$64
Community Park	\$40	\$80
East Clayton Community Park	\$40	\$80
Municipal Park - Cypress	\$50	\$100
Municipal Park - Birch	\$40	\$80
Municipal Park - Maple	\$40	\$80
Municipal Park Stage (Per 4-hour block)	Resident Fee	Non-Resident Fee
Up to 50 - includes shelter	\$180	\$360
51 to 150 - includes 2 shelters	\$260	\$520
151 to 499 - includes 3 shelters	\$340	\$680

Community Center Memberships - Calendar Year Basis

Annual Memberships - Calendar Year Basis

Individual	\$0	\$50
Family with Dependents	\$0	\$100
Daily Memberships	N/A	\$5
Lost Cards	\$5	\$5

*Johnston County non-profits are eligible to receive the Resident Fee for Facility Rentals. Does not impact tournament rentals or program registrations.

Commercial Use Permit	\$25	\$25
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Hocutt Ellington Memorial Library

Library Cards	Johnston County Resident	Non-Johnston County Residents
Individual - Annual	\$0	\$25
Individual - Semi-Annual	\$0	\$15
Individual - Quarterly	\$0	\$10
Family - Annual	\$0	\$50
Education Employee (All Johnston County with ID)	\$0	\$0

Internet Usage

With Valid Library Card	\$0	\$0
Without Valid Library Card	\$0	\$5 per hour

Library Fees

Copy Machine or Computer Printouts	\$0.20/page B&W; \$0.25/page Color	\$0.20/page B&W; \$0.25/page Color
Lost Book	Replacement Cost	Replacement Cost
Library Card Replacement	\$5	\$5

IT Technology Lending

Return of Device Kit In "After Hours" Book Drop	\$10 plus cost of any damage*	\$10 plus cost of any damage*
Device(s) Returned Late	\$5 per day / max \$25	\$5 per day / max \$25
Device(s) not Returned within 7 Days of Due Date	Full replacement cost*	Full replacement cost*
Lost or Damaged Technology or Accessories	Cost as indicated on checklist*	Cost as indicated on checklist*

* These costs/fees will be included on fully executed lending agreement

Special Events

Special Event Fees	Resident Fee	Non-Resident Fee
Application Review	\$100	\$200
Sanitation Deposit	\$250	\$250
Street Closure	\$50 / day	\$100 / day

Type III Barricade Rental	\$5 / barricade / day	\$25 + \$5 / barricade / day
Police Detail Fee (3 hour minimum)	\$35 / officer / hour	\$35 / officer / hour + \$100 Admin Fee
Garbage/Recycling Container Rental (minimum of 4)	\$13 / container / day	\$13 / container / day + \$50 Admin Fee
Generating Notice Addresses (one hour minimum)	\$25 / hour	\$50 / hour
Emergency Notification Call / Mass Phone	\$50	\$100
No Parking Signage	\$3 / sign	\$3 / sign
Positive Barricades (filled and installed)	\$45 per intersection	\$45 per intersection
Utility Fees (Water and Electricity)		
Events longer than one day	\$10 / utility	\$20 / utility
Town/Horne Square Rental with Road Closure: (Special Event Application Fee, 8 Trash Cans, Road Closure Fee, 10 No Parking Signs, Water Barricades, and Town Square Rental)	\$500	\$750
Town/Horne Square Rental with No Road Closure: (Special Event Application Fee, 6 Trash Cans, and Horne Square Rental)	\$250	\$400

Non-Departmental Equipment Usage	
Sewer Jetter	\$65 / hour
Leaf Machine	\$65 / hour
Backhoe	\$55 / hour
Line Truck	\$50 / hour
Bucket Truck	\$50 / hour
Sewer Rodding Machine	\$40 / hour
Tractor & Bush Hog	\$40 / hour
Mowing Machine	\$40 / hour
Ditch Witch Trencher	\$40 / hour
Asphalt Roller	\$40 / hour
Riding Mower	\$35 / hour
1/2 Ton Pickup Truck	\$25 / hour
Air Hammer	\$25 / hour
Soil Tamp	\$25 / hour
Push Mower	\$20 / hour
* Rates for usage of equipment not listed above shall be based on the rates published by FEMA plus 15% for billing, management, and overhead.	

The Clayton Center

Rental Fees - Location, Staffing, Miscellaneous

Location Space	Individual/Corporate/Promoter	Community Based Group	Non-Profit
Auditorium	\$150/hr.	\$115/hr.	\$100/hr
Council Chambers	\$125/hr.	\$115/hr.	\$100/hr
Lobby Gallery	\$150/hr.	\$115/hr.	\$100/hr
Large Classroom	\$70/hr.	\$60/hr.	\$60/hr
Small Classrooms	\$40/hr.	\$35/hr.	\$35/hr
*All spaces rented for a 2-hour minimum during the week. A 4-hour minimum applies to Friday evening, Saturday, and Sunday rentals. In order to qualify for non-profit rates, clients may be asked to provide a valid 501-C3 identification number. Security deposit of 50% of the estimated event fee (including space rental fees, staffing, and other value-added services) is due to guarantee space and date.			
Additional Charges/Services			
Lead Staff/House Manager	\$30/hr. per staff person	Required for evening and weekend events and as determined by TCC management for other events	
Support Staff/Usher	\$25/hr. per staff person	As determined by TCC management	
Custodian	\$135 flat fee	Additional fees may apply for rentals over 6 hours and/or events with large numbers of people in attendance	
Box Office Clerk	\$30/hr. per technician	Required for Auditorium rentals using house ticketing	
Technical Lead Staff	\$35/hr. per technician	Required for Auditorium rentals using house sound/lights/equipment and for events in other spaces requiring extensive IT support	
AV/IT Technician	\$30/hr. per technician	Required for Auditorium rentals using house sound/lights/equipment and for events in other spaces requiring extensive IT support	
Stage Crew/Spot Operator/Support	\$25/hr. per technician	Required for Auditorium rentals using house sound/lights/equipment and for events in other spaces	
Box Office Ticketing Setup	\$75 flat fee	Box Office hours subject to change. Day of Box Office opens 1 hour before performance start time	
Piano Tuning	\$225 flat fee	Arranged directly through TCC management with approved preferred vendor	
Dance Floor	\$450 flat fee	(Any size up to 18' x 21')	
	\$275 flat fee	(Any size up to 12' x 15')	
Chambers Upgrades	\$250 flat fee for staging	(Any size up to 8' x 12')	
	\$350 flat fee for simple audio	(up to two mics & single input – no instruments or subs)	
	\$550 flat fee for full package + Technician Staffing hourly charges	(up to five mics & 8 total inputs including instruments & subs, includes basic lighting)	
	\$175 flat fee for armless banquet chairs	(not available last minute)	
Damage Deposit	\$300 flat fee (refundable)	May be required for any rental as determined by TCC management. Deposit is refundable after the event date provided rental time frame is not exceeded and facility suffers no damage as a result of the event.	



Agreement (Contract)

INSTRUCTIONS TO CONTRACTORS AND REQUIREMENTS AS TO FORM FOR TOWN OF CLAYTON, NC AGREEMENTS DO NOT REMOVE FROM AGREEMENT

Date:

Contractor has been provided two (2) duplicates of the Agreement (or shall create two copies of the electronic version if Contractor has received that from the Town). Each of the two copies shall be signed and returned to the Engineer or Architect for signature by the owner. One counterpart will be returned to the contractor after Owner has executed the Agreement and all initial submittals due with the Agreement have been made to Owner. The other counterpart of the Agreement will be retained for the Owner and Engineer or Architect. If the Contractor requires additional copies, he shall notify the Owner, Engineer, or Architect upon his Acknowledgement of the Notice of Award.

Please observe the following in executing the attached Agreement:

1. The Owner may contract with five types of legal entities.
 - a) If the Agreement is with an individual that individual should sign the Agreement exactly as his/her name is set out. If the Agreement is with an individually owned business, the Agreement should be with the individual owner, and not the named business.
 - b) Execution on behalf of a corporation should be by the president or a vice president, attested by the corporate secretary, with the corporate seal affixed. An official other than president or vice president should attach documentation of his/her authority to execute and bind the corporation.
 - c) If the Agreement is with a partnership, all general partners of the partnership should execute the Agreement unless an authorized partner is designated to execute, in which case documentation of such authorization should be attached.
 - d) If the Agreement is with a limited liability company, all managers of the limited liability company should execute the Agreement. If the limited liability company is member-managed, all members should sign the Agreement. If only certain manager(s) or member(s) of the limited liability company are authorized to execute the Agreement, documentation of such authorization should be attached.
 - e) If the Agreement is with a joint venture, all joint venturers should execute the Agreement. If only certain joint venturers of the joint venture are authorized to execute the Agreement, documentation of such authorization should be attached.
2. After signing the Agreement, the appropriate notary's acknowledgement, in the individual, corporate or partnership form should be completed.

3. The agreement will already be dated as of a certain date when Contractor received it, which date will aid the Contractor in obtaining the Performance and Payment Bonds. The date of the Bonds must not be prior to the date of the Agreement. The Performance Bond and Payment Bond shall Correctly reference the Agreement, including the date assigned to it. The Bonds shall be signed by the Contractor, and its signature shall be acknowledged with the appropriate acknowledgment form. Next, the Bonds, in approved form, must be signed by the authorized agent of the Surety Company issuing the Bonds, and the executed Power of Attorney document authorizing the agent to sign must accompany the Bond Documents.
4. The Bid Form and all other documents submitted with the Bid shall be included in the Agreement.
5. Once the Town has received and approved the Agreement, the Payment and Performance Bonds and all other required documents, it will send a counterpart of the fully executed Agreement to the Contractor. Failure to fully complete both required sets of the Agreement and timely provide all the Payment and Performance Bonds will cause delays in the approval by the Owner and therefore delay the issuance of the Notice to Proceed.

AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

This Agreement is by and between [name of contracting entity] (“Owner”) and [name of contracting entity] (“Contractor”).

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

ARTICLE 1—WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: **Demolition and renovation of interior library spaces, including interior walls, doors, frames, hardware, interior storefront, glazing, interior finishes, architectural casework, signage, toilet compartments, and window blinds. The work also includes plumbing fixtures, HVAC and controls, electrical fixtures, telephone/data raceway, security components and cabling, and audio visual components and cabling.**

ARTICLE 2—THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: **Hocutt-Ellington Library Renovation**

ARTICLE 3—ENGINEER/ARCHITECT

- 3.01 The Owner has retained **Davis Kane Architects** (“Architect”) to act as Owner’s representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.
- 3.02 The part of the Project that pertains to the Work has been designed by **Davis Kane Architects**.

ARTICLE 4—CONTRACT TIMES

- 4.01 *Time is of the Essence*
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
 - B. The Contractor shall commence the Work on the commencement date specified in a written order of the Owner (the “Notice to Proceed”).
- 4.03 *Contract Times: Days*
- A. The Work will be substantially complete within **275** days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **305** days after the date when the Contract Times commence to run.

4.05 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. *Substantial Completion*: Contractor shall pay Owner **\$500** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
 2. *Completion of Remaining Work*: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$500** for each day that expires after such time until the Work is completed and ready for final payment.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

4.06 *Special Damages*

- A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.
- C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.

ARTICLE 5—CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

- A. For all Work other than Unit Price Work, a lump sum of **\$[number]**.

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

- B. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).

Item No.	Description	Unit	Estimated Quantity	Unit Price
Q-E1	Duplex Receptacle with 30 ft conduit, 30 ft wiring	each	3	\$
Q-E2	Data Outlet (2 data drops) with 30 ft conduit, 600 ft cabling		3	\$
Q-E3	Exit Signs with 30 ft conduit, 30 ft wiring		3	\$

- C. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) \$[number].
- D. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

ARTICLE 6—PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Architect as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the **5th** day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
 - a. **95%** percent of the value of the Work completed (with the balance being retainage).
 - 1) If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
- B. Within sixty (60) days after the submission of a pay request, the Town with written consent of the surety shall release to the Contractor all retainage on payments, less such amounts set off by Owner pursuant to Paragraph 15.01E of the General Conditions held by the Town if (1) the Town receives a certificate of substantial completion from the architect, engineer, or

designer in charge of the project; or (2) the Town receives beneficial occupancy or use of the project. However, the Town may retain sufficient funds to secure completion of the project or corrections on any work. If the Town retains funds, the amount retained shall not exceed two and one-half (2 ½) times the estimated value of the work to be completed or corrected. Any reduction in the amount of the retainage on payments shall be with the consent of the contractor's surety.

- C. If the Town determines the Contractor's performance is unsatisfactory, the Town may reinstate retainage in the amount of five percent (5%) for each subsequent partial or periodic payment application until the Contractor's performance becomes satisfactory. The project shall be deemed fifty percent (50%) complete when the contractor's gross project invoices, excluding the value of materials stored off-site, equal or exceed fifty percent (50%) of the value of the contract, except the value of materials stored on-site shall not exceed twenty percent (20%) of the contractor's gross project invoices for the purpose of determining whether the project is fifty percent (50%) complete. Following fifty percent (50%) completion of the project, the Town may also withhold additional retainage from any subsequent periodic payment, not to exceed five percent (5%), in order to allow the Town to retain two and one-half percent (2 ½%) total retainage through the completion of the project.
- D. Retainer provisions contained in Contractor's subcontracts may not exceed the terms and conditions for retainage provided herein. Contractors are further required to satisfy the retainage provisions of N.C.G.S. 143-134.1(b2) with regard to subcontracts for early finishing trades (structural steel, piling, caisson, and demolition) and to coordinate the release of retainage for such trades from the retainage held by the Town from the Contractor pursuant to statute. Nothing shall prevent the Town from withholding payment to the Contractor in addition to the amounts identified herein for unsatisfactory job progress, defective construction not remedied, disputed work, or third-party claims filed against the Town or reasonable evidence that a third-party claim will be filed.

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.

6.04 *Consent of Surety*

- A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

ARTICLE 7— CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of all of the following:
 - 1. This Agreement.
 - 2. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).

3. General Conditions.
4. Supplementary Conditions.
5. Specifications as listed in the table of contents of the project manual (copy of list attached).
6. Drawings (not attached but incorporated by reference) consisting of **77** sheets with each sheet bearing the following general title: **Hocutt-Ellington Library Renovation**.
8. Addenda (numbers **[number]** to **[number]**, inclusive). **TBD**
9. Exhibits to this Agreement (enumerated as follows):
 - a. All documents listed under Article 2.01 of the Bid Form
10. The following which may be delivered or issued on or after the Effective Date of the Contract and are attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Warranty Bond, if any.
- B. The Contract Documents listed in Paragraph 7.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 Contractor's Representations

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
 1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
 2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
 4. Contractor has carefully studied the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such drawings.

5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

8.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

8.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or “track changes” (redline/strikeout), or in the Supplementary Conditions.

Non-Discrimination

During the performance of this Contract, the Contractor agrees that it shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall post in conspicuous places available to employees and applicants for employment notices setting forth these EEO provisions. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap.

Minority or Women Owned Business Enterprise

Pursuant to General Statutes of North Carolina Section 143-128 and 143-131 and to Town policy, the Town of Clayton encourages and provides equal opportunity for Certified Minority and Woman-Owned Business Enterprise (MWBE) businesses to participate in all aspects of the Town’s contracting and procurement programs to include – Professional Services; Services; and Construction.

Furthermore, the Town’s goal is to contract or subcontract ten (10%) of the contract amount to Certified MWBE’s on construction projects, service and professional service contracts. Contractor agrees to comply with all MWBE requirements set forth in the contract documents.

E-Verify

As a condition of payment for services rendered under this contract, Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes when required by law. Further, if Contractor provides the services to the Town utilizing a subcontractor(s), Contractor shall require the subcontractor(s) to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes as well. Contractor shall verify, by affidavit (see attached Affidavit E), compliance of the terms of this section by submitting the affidavit to Town upon execution of this contract.

Federal Funds

The Contractor shall make all necessary inquiries to correctly identify the source of funding for Agreement. If the source of funds for Agreement is federal funds, the following federal provisions apply pursuant to 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II (as applicable), unless a more stringent state or local law or regulation is applicable: Equal Employment Opportunity (41 C.F.R. Part 60); Davis-Bacon Act (40 U.S.C. 3141-3148); Copeland “Anti-Kickback” Act (40 U.S.C. 3145); Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708); Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water

Pollution Control Act (33 U.S.C. 1251-1387); Debarment and Suspension (Executive Orders 12549 and 12689); Byrd Anti-Lobbying Amendment (31 U.S.C. 1352); Procurement of Recovered Materials (2 C.F.R. § 200.322); and Record Retention Requirements (2 CFR § 200.324).

Iran Divestment Act

Contractor hereby certifies that it is not on the North Carolina State Treasurer's list of persons engaging in business activities in Iran, prepared pursuant to NCGS G.S. 147-86.58, nor will Provider utilize on this agreement any subcontractor on such list.

Divestment from Companies that Boycott Israel

Contractor hereby certifies that it is not on the North Carolina State Treasurer's list of companies engaged in a boycott of Israel in violation of NCGS 147-86.80 et. seq. and that it will not utilize on this agreement any subcontractor on said list."

Right to Audit

confirm compliance with the terms of this Agreement, the Town's MWBE program, local, state, and federal laws and regulations, the Town may, at all reasonable times upon reasonable prior notice during usual business hours, inspect, audit and examine for a period up to five (5) years after completion of the service or project detailed in this Agreement, all accounts and books of Contractor and, where necessary, make copies of the Contractor's documents necessary to determine compliance. Such a right may be exercised through any agent or employee of the Town or by independent certified public accountants designated by the Town. The Contractor shall permit the aforementioned inspection, audit and examination, and where necessary, the Town to make copies of documents verifying compliance as indicated herein.

Laws & Safety Standards

The Contractor shall comply with all laws, ordinances, codes, rules, regulations, safety standards and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and/or authority.

All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing or identification marking of the appropriate safety standard organization, such as the American Society of Mechanical Electrical Engineers for pressure vessels; the Underwriters' Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type(s) of devices offered and furnished. Further, all items furnished by the Contractor shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

Contractor must comply with *North Carolina Occupational Safety and Health Standards for General Industry 13 NCAC 07F (29CFR 1910)*. In addition, Contractor shall comply with all applicable occupational health and safety and environmental rules and regulations.

Contractor shall effectively manage its safety and health responsibilities including:

- a. Accident Prevention

Prevent injuries and illnesses to its employees and others on or near the job site. Contractor managers and supervisors shall ensure personnel safety by strict adherence to established safety rules and procedures.

b. Environmental Protection

Protect the environment on, near, and around the work site by compliance with all applicable environmental regulations.

c. Employee Education and Training

Provide education and training to all contractor's employees before they are exposed to potential workplace or other hazards as required by specific OSHA Standards.

Proper Care of Town Property

The Contractor shall be responsible for the proper custody and care of any property furnished or purchased by the Town for use in connection with the performance of this Contract and will reimburse the Town for the replacement value of its loss or damage. The Contractor shall keep the job sites and surrounding area reasonably free from rubbish at all times and shall remove debris from the site from time to time or when directed to do so by the Town. Before final inspection and acceptance of the project, the Contractor shall thoroughly clean the job sites, and completely prepare the project and site for use by the Town.

Emergencies

Notwithstanding anything else in this Contract, while federal, state, or local state(s) of emergency are in effect, or when a public health emergency has been declared, Contractor shall comply with all guidance and recommendations of the Centers for Disease Control, the State of North Carolina, Johnston County, unless mutually agreed to in writing by Town and Contractor.

Independent Contractor

For purposes of this Contract, Contractor at all times shall be considered an independent contractor, and Town shall not be deemed the employer of Contractor or of any of Contractor's agents or employees for any purpose (including, but not limited to federal or state income taxation, unemployment benefits, or worker's compensation benefits), nor shall Town be responsible for the acts or omissions of Contractor, or its agents and employees, except that Town shall pay the approved amounts negotiated by Contractor, as described the Contract Specifications. Contractor shall be solely responsible for performing any background checks or other due diligence necessary to ensure that all agents and employees of Contractor engaged in performing the Services are appropriate and qualified to perform such Services.

Standards and Duties of Contractor

The Contractor shall be held to the same standards and shall exercise the same degree of care, skill, and judgment in the performance of its advisory, management and oversight duties and services for Town as is ordinarily provided by similar professionals under the same or similar circumstances under the laws of the State of North Carolina. In addition, Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict or perceived conflict with its obligations to the Town under this Contract.

Confidential Information

Contractor will not disclose any confidential information received from Town, or otherwise discovered by the Contractor, to any third party, except as expressly permitted in this Contract. Contractor will use confidential information only for the purpose of performing under this Contract.

Interpretation

Titles and headings used in this Contract are for convenience only and do not limit or modify the language within each section of this Contract. This Contract's use of singular, plural, masculine, feminine, and neuter pronouns shall include the others as the context may require. The words "include", "includes", and "including" shall be interpreted as if followed by the phrase "without limitation" or "but not limited to," or words of similar meaning.

Entire Contract; Conflict in Terms

This Contract (including any documents incorporated herein) constitutes the complete and entire Contract between Town and Contractor concerning the subject matter of the Contract and supersedes any and all prior Contracts, discussions, understandings, promises, or representations concerning that subject matter. This Contract may be modified only by a writing signed by both Town and Contractor. The failure of the Town or Contractor to enforce at any time or for any period of time, any one or more of the provisions of this Contract shall not be construed to be and shall not be a waiver of such provision or provisions or of its right thereafter to enforce each and every such provision. In the event of any conflict between the terms of the body of this Agreement between Owner and Contractor for Construction Contract shall control.

Severability

If any provision contained in this Contract is held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. The Court shall instead reform or replace any void or unenforceable provision with a valid and enforceable provision that gives meaning to the intention of the provision or shall strike the provision from the Contract.

Performance of Government Functions

Nothing contained in this contract shall be deemed or construed so as to in any way stop, limit, or impair the Town from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

Construction of this Contract

It is agreed that the terms and conditions of the Contract shall not be construed in favor of or against either party and that both parties have legal counsel available to review this Contract in connection with this arms-length transaction.

Identification of Parties and Authorized Representatives

Various parties to the Contract, and parties who will be acting on another party's behalf from time to time, are identified in Schedule 1 attached hereto. Although certain parties may act on another party's behalf from time to time under the Contract Documents in certain respects (issuing directives, for instance), with respect to most documentation issued under the Contract Documents, the set of people that may bind each party is limited. The proper identification of those specific individuals (through name or title identification) that are entitled and authorized to bind the parties to the various Contract Documents that exist or may be created in connection with this Agreement is critical to the proper administration of this Agreement, and those individuals are specified in Schedule 1 attached hereto.

The parties agree that the persons (specified by names or titles/roles) of signatories to the Contract Documents that are specified on Schedule 1 attached hereto are the only appropriate parties to execute such documentation and bind the parties listed for each such Contract Document to all obligations incurred or acknowledged, and all representations and warranties made, in such documents. To that end, for example, although the Owner is the Town of Clayton, as described in Schedule 1, the proper specific individuals (indicated by name or by title) to execute various documents on behalf of the Owner are specified on Schedule 1 attached hereto.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

Owner:

(typed or printed name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:

Designated Representative:

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address:

Phone: _____

Email: _____

(If [Type of Entity] is a corporation, attach evidence of authority to sign. If [Type of Entity] is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Contractor:

(typed or printed name of organization)

By: _____
(individual's signature)

Date: _____
(date signed)

Name: _____
(typed or printed)

Title: _____
(typed or printed)

(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____
(individual's signature)

Title: _____
(typed or printed)

Address for giving notices:

Designated Representative:

Name: _____
(typed or printed)

Title: _____
(typed or printed)

Address:

Phone: _____

Email: _____

License No.: _____
(where applicable)

State: _____

CERTIFICATE OF AUTHORITY

RESOLUTION OF CONTRACTOR'S PARTNERS, MANAGERS OR MEMBERS

(Fill in and attach if necessary)

[CORPORATION/PARTNERSHIP/LIMITED LIABILITY/JOINT VENTURE COMPANY NAME]

KNOW ALL MEN BY THESE PRESENTS:

That at a meeting of the [board of directors/partners/all members/managers] of [Contractor] a [business corporation/partnership/limited liability company] duly organized under the laws of the State of _____, held on _____, 20____ the following Resolution was adopted, which Resolution is still in effect:

RESOLVED, that [any of] the following:

[insert individual name and title]:

be, and they hereby are, authorized to execute any and all documents, including contracts, on behalf of [Contractor] and further that Certificates of Authority setting out this Resolution be prepared and certified by [the Secretary of [Contractor]/all partners/all members/managers] to be used to evidence such authority.

[For a corporation, use the following certification of the Secretary:]

That I am the duly elected and qualified Secretary of [Contractor] and the keeper of records of said company; that the foregoing is a true and correct copy of a Resolution duly adopted at the meeting described above and held in accordance with its charter and bylaws, and that the same is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto affixed by name as Secretary by order of the ____ this ____ day of ____, ____.

, Secretary

STATE OF _____

COUNTY OF _____

Subscribed and sworn to before me this the _____ day of _____, 20____.

[SEAL]

Notary Public

[For partnership or limited liability company, use the following certification of all partners/members/managers, whose signatures should all appear below or otherwise attached:]

That the following consist of all [partners/members/managers] of [Contractor]; that the foregoing is a true and correct copy of a Resolution duly adopted at a meeting described above and held in accordance with its charter and bylaws, and that the same is now in full force and effect.

Partner/Member/Manager's name

Partner/Member/Manager's signature

Partner/Member/Manager's name

Partner/Member/Manager's signature

[List all partners/members/managers and include signatures for each. Use additional pages as attachments if necessary.]

STATE OF _____

COUNTY OF _____

Subscribed and sworn to before me this the _____ day of _____, 20____.

[SEAL]

Notary Public

CERTIFICATE OF INSURANCE/INSURANCE ENDORSEMENTS

(Attach)

[See the General Conditions 6.02-O for specific requirements.]

CERTIFICATE OF PAYMENTS

I hereby certify that I am the legal and duly appointed Financial Director or Designee for the Owner of this project and that provision for the payment of the moneys to fall due under this Agreement has been made by appropriation duly made or by bonds or notes duly authorized, as required by the Local Government and Fiscal Control Act.

BY: _____

TITLE: _____

DATE: _____

SCHEDULE 1

IDENTIFICATION OF PARTIES AND THEIR AUTHORIZED REPRESENTATIVES

USE THIS FORM WHEN REVIEWING CONTRACT DOCUMENTATION TO ENSURE THAT PROPER AUTHORIZATION HAS BEEN GRANTED BY EACH PARTY TO SUCH DOCUMENTATION.

The "Owner" is the **Town of Clayton**, a municipal corporation in North Carolina, and its successors and assigns, and is the party for whom the Work is to be performed. Except as otherwise specifically stated in the Contract Documents, neither the Architect nor the Engineer has authority to bind the Owner. Except as otherwise specified below for various contract documentation, the Owner is represented by and may be bound by the Project Manager or the Project Engineer with respect to day-to-day issues and correspondence.

The Owner Project Manager is:

NAME: **Christopher Gallant**

The "Architect" is the Architect or the Architect's authorized representative as identified in Contract Documents. The Architect is identified by the Owner as the Architect for the Work from time to time. In its sole discretion, the Owner may act in the stead of the Architect, exercising any of the rights or responsibilities of the Architect provided under the Contract Documents, so long as the Owner provides notice to the Contractor of its intent to do so. In its sole discretion, the Owner may delegate any of the rights or responsibilities of the Architect to a third party, who, for the purposes of the rights and responsibilities so delegated, shall be governed by the Contract Documents, so long as the Owner provides notice to the Contractor of its intent to do so.

The "Engineer" is N/A and/or any other party identified by the Owner as the Engineer for the Work from time to time. In its sole discretion, the Owner may act in the stead of the Engineer, exercising any of the rights or responsibilities of the Engineer provided under the Contract Documents, so long as the Owner provides notice to the Contractor of its intent to do so. In its sole discretion, the Owner may delegate any of the rights or responsibilities of the Engineer to a third party, who, for the purposes of the rights and responsibilities so delegated, shall be governed by the Contract Documents, so long as the Owner provides notice to the Contractor of its intent to do so.

The Engineer/Architect Consultant is: Davis Kane Architects and any other party to a subcontract with Engineer in connection with the Work _____

The parties hereby agree that, notwithstanding any provision in the Contract Documents that appears to or in fact grants one party the right to act on behalf of another party, with respect to the documentation below, those individuals named below, personally or by role or title (or any person at a position "higher" than the individual or role named below) (in either event, an "Authorized Party") shall be the only people entitled to execute the documentation for which that individual or role is named. A position is "higher" than another position in a company if the position is an office authorized by law to bind the entity or the latter position reports (directly or through other parties) to the position in question. When an Authorized Party executes a Contract Document for which it is specified as an Authorized Party, such Authorized Party shall be deemed to be acting on behalf of the party for whom it is executing such document, binding such party as to obligations acknowledged and representations and warranties made in such documentation, and no other proof of agency, authority or delegation of power is necessary to so bind such party by the execution of the document by the Authorized Party.

<u>Document</u>	<u>Party to Execute</u>	<u>Authority to Execute: Name/Title</u>
Agreement	Owner	Richard D Cappola, Jr. Town Manager
	Contractor	
Application for Payment	Owner	Project Manager/(name)
	Contractor	
	Engineer/Architect	
Change Order	Owner (reviewer)	Richard D Cappola, Jr. Town Manager
	Owner (execution)	
	Contractor (reviewer/execution)	
	Engineer/Architect (recommendation)	
Field Order	Owner	
	Contractor	
	Engineer/Architect (recommendation)	
Work Change Directive	Owner	
	Contractor	
	Engineer/Architect (recommendation)	

This Schedule 1 may be revised, amended and/or replaced by a new Schedule 1 identifying other individuals or roles entitled to execute the documentation described herein if the replacement Schedule 1 is signed by each of the parties below. The revised Schedule 1 shall be dated and attached to the Contract Documents, and a copy shall be given to all affected parties. To the extent possible, prior versions of Schedule 1 shall be removed from the Contract Documents when a replacement Schedule 1 is approved.

Town of Clayton:

Contractor:

By: _____

Richard D. Cappola, Jr

Town Manager

By: _____

[President or Vice-President or Owner]

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The document prepared by Contractor, in a form acceptable to Engineer, to request progress or final payments, and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The Advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*
 - a. A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment of Contract Price or Contract Times; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract.

- b. A demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal, or seeking resolution of a contractual issue that Engineer has declined to address.
 - c. A demand or assertion by Owner or Contractor, duly submitted in compliance with the procedural requirements set forth herein, made pursuant to Paragraph 12.01.A.4, concerning disputes arising after Engineer has issued a recommendation of final payment.
 - d. A demand for money or services by a third party is not a Claim.
11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), lead-based paint (as defined by the HUD/EPA standard), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to Laws and Regulations regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Electronic Document*—Any Project-related correspondence, attachments to correspondence, data, documents, drawings, information, or graphics, including but not limited to Shop Drawings and other Submittals, that are in an electronic or digital format.
21. *Electronic Means*—Electronic mail (email), upload/download from a secure Project website, or other communications methods that allow: (a) the transmission or communication of Electronic Documents; (b) the documentation of transmissions, including sending and receipt; (c) printing of the transmitted Electronic Document by the recipient; (d) the storage and archiving of the Electronic Document by sender and recipient; and (e) the use by recipient of the Electronic Document for purposes permitted by this Contract. Electronic Means does not include the use of text messaging, or of Facebook, Twitter, Instagram, or similar social media services for transmission of Electronic Documents.
22. *Engineer*—The individual or entity named as such in the Agreement.
23. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.

24. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto.
- The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated into the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, is not a Hazardous Environmental Condition.
 - The presence of Constituents of Concern that are to be removed or remediated as part of the Work is not a Hazardous Environmental Condition.
 - The presence of Constituents of Concern as part of the routine, anticipated, and obvious working conditions at the Site, is not a Hazardous Environmental Condition.
25. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and binding decrees, resolutions, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
26. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.
27. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date, or by a time prior to Substantial Completion of all the Work.
28. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
29. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
30. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
31. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising Contractor's plan to accomplish the Work within the Contract Times.
32. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
33. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative (RPR) includes any assistants or field staff of Resident Project Representative.
34. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
35. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals.
36. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

37. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
38. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands or areas furnished by Owner which are designated for the use of Contractor.
39. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
40. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
41. *Submittal*—A written or graphic document, prepared by or for Contractor, which the Contract Documents require Contractor to submit to Engineer, or that is indicated as a Submittal in the Schedule of Submittals accepted by Engineer. Submittals may include Shop Drawings and Samples; schedules; product data; Owner-delegated designs; sustainable design information; information on special procedures; testing plans; results of tests and evaluations, source quality-control testing and inspections, and field or Site quality-control testing and inspections; warranties and certifications; Suppliers' instructions and reports; records of delivery of spare parts and tools; operations and maintenance data; Project photographic documentation; record documents; and other such documents required by the Contract Documents. Submittals, whether or not approved or accepted by Engineer, are not Contract Documents. Change Proposals, Change Orders, Claims, notices, Applications for Payment, and requests for interpretation or clarification are not Submittals.
42. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion of such Work.
43. *Successful Bidder*—The Bidder to which the Owner makes an award of contract.
44. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
45. *Supplier*—A manufacturer, fabricator, supplier, distributor, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
46. *Technical Data*
- Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (1) existing subsurface conditions at or adjacent to the Site, or existing physical conditions at or adjacent to the Site including existing surface or subsurface structures (except Underground Facilities) or (2) Hazardous Environmental Conditions at the Site.
 - If no such express identifications of Technical Data have been made with respect to conditions at the Site, then Technical Data is defined, with respect to conditions at the Site under

Paragraphs 5.03, 5.04, and 5.06, as the data contained in boring logs, recorded measurements of subsurface water levels, assessments of the condition of subsurface facilities, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical, environmental, or other Site or facilities conditions report prepared for the Project and made available to Contractor.

- c. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data, and instead Underground Facilities are shown or indicated on the Drawings.

47. *Underground Facilities*—All active or not-in-service underground lines, pipelines, conduits, ducts, encasements, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or systems at the Site, including but not limited to those facilities or systems that produce, transmit, distribute, or convey telephone or other communications, cable television, fiber optic transmissions, power, electricity, light, heat, gases, oil, crude oil products, liquid petroleum products, water, steam, waste, wastewater, storm water, other liquids or chemicals, or traffic or other control systems. An abandoned facility or system is not an Underground Facility.

48. *Unit Price Work*—Work to be paid for on the basis of unit prices.

49. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.

50. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in Paragraphs 1.02.B, C, D, and E are not defined terms that require initial capital letters, but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives*: The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day*: The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.

- D. *Defective*: The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
1. does not conform to the Contract Documents;
 2. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 3. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or Paragraph 15.04).
- E. *Furnish, Install, Perform, Provide*
1. The word “furnish,” when used in connection with services, materials, or equipment, means to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word “install,” when used in connection with services, materials, or equipment, means to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, means to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words “furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.
- F. *Contract Price or Contract Times*: References to a change in “Contract Price or Contract Times” or “Contract Times or Contract Price” or similar, indicate that such change applies to (1) Contract Price, (2) Contract Times, or (3) both Contract Price and Contract Times, as warranted, even if the term “or both” is not expressed.
- G. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2—PRELIMINARY MATTERS

2.01 *Delivery of Performance and Payment Bonds; Evidence of Insurance*

- A. *Performance and Payment Bonds*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner the performance bond and payment bond (if the Contract requires Contractor to furnish such bonds).
- B. *Evidence of Contractor’s Insurance*: When Contractor delivers the signed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each additional insured (as identified in the Contract), the certificates, endorsements, and other evidence of insurance required to be provided by Contractor in accordance with Article 6, except to the extent the Supplementary Conditions expressly establish other dates for delivery of specific insurance policies.

- C. *Evidence of Owner's Insurance:* After receipt of the signed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each additional insured (as identified in the Contract), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and /or other design professionals and stamped approval by the Town of Clayton. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Contract (or as otherwise required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work, and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other Submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review the schedules submitted in accordance with Paragraph 2.03.A. No progress payment will be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility

for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.

2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.
4. If a schedule is not acceptable, Contractor will have an additional 10 days to revise and resubmit the schedule.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may send, and shall accept, Electronic Documents transmitted by Electronic Means.
- B. If the Contract does not establish protocols for Electronic Means, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. Subject to any governing protocols for Electronic Means, when transmitting Electronic Documents by Electronic Means, the transmitting party makes no representations as to long-term compatibility, usability, or readability of the Electronic Documents resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the Electronic Documents.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one Contract Document is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic versions of the Contract Documents (including any printed copies derived from such electronic versions) and the printed record version, the printed record version will govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.
- F. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon Owner and Contractor, which agree that the Contract Documents will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

G. Nothing in the Contract Documents creates:

1. any contractual relationship between Owner or Engineer and any Subcontractor, Supplier, or other individual or entity performing or furnishing any of the Work, for the benefit of such Subcontractor, Supplier, or other individual or entity; or
2. any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity, except as may otherwise be required by Laws and Regulations.

3.02 *Reference Standards*

A. *Standards Specifications, Codes, Laws and Regulations*

1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, means the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids or if Laws or Regulations are different at the time of the Work, then those Laws or Regulations in effect at the time of the Work (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
2. No provision of any such standard specification, manual, reference standard, or code, and no instruction of a Supplier, will be effective to change the duties or responsibilities of Owner, Contractor, or Engineer from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner or Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer and Owner any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer in writing all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly notify Owner and Contractor in writing that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein precludes Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

- A. The Contract Times will commence to run on the 30th day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the 60th day after the day of Bid opening or the 30th day after the Effective Date of the Contract, whichever date is earlier.

4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work may be done at the Site prior to such date.

4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.
 - 2. Proposed adjustments in the Progress Schedule that will change the Contract Times must be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work will be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible,

then Contractor shall be entitled to an equitable adjustment in Contract Times. Such an adjustment will be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:

1. Severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 2. Abnormal weather conditions;
 3. Acts or failures to act of third-party utility owners or other third-party entities (other than those third-party utility owners or other third-party entities performing other work at or adjacent to the Site as arranged by or under contract with Owner, as contemplated in Article 8); and
 4. Acts of war or terrorism.
- D. Contractor's entitlement to an adjustment of Contract Times or Contract Price is limited as follows:
1. Contractor's entitlement to an adjustment of the Contract Times is conditioned on the delay, disruption, or interference adversely affecting an activity on the critical path to completion of the Work, as of the time of the delay, disruption, or interference.
 2. Contractor shall not be entitled to an adjustment in Contract Price for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor. Such a concurrent delay by Contractor shall not preclude an adjustment of Contract Times to which Contractor is otherwise entitled.
 3. Adjustments of Contract Times or Contract Price are subject to the provisions of Article 11.
- E. Each Contractor request or Change Proposal seeking an increase in Contract Times or Contract Price must be supplemented by supporting data that sets forth in detail the following:
1. The circumstances that form the basis for the requested adjustment;
 2. The date upon which each cause of delay, disruption, or interference began to affect the progress of the Work;
 3. The date upon which each cause of delay, disruption, or interference ceased to affect the progress of the Work;
 4. The number of days' increase in Contract Times claimed as a consequence of each such cause of delay, disruption, or interference; and
 5. The impact on Contract Price, in accordance with the provisions of Paragraph 11.07.
- Contractor shall also furnish such additional supporting documentation as Owner or Engineer may require including, where appropriate, a revised progress schedule indicating all the activities affected by the delay, disruption, or interference, and an explanation of the effect of the delay, disruption, or interference on the critical path to completion of the Work.
- F. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5, together with the provisions of Paragraphs 4.05.D and 4.05.E.

- G. Paragraph 8.03 addresses delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.

ARTICLE 5—SITE; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor in writing of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.
- D. If all lands, easements, and right-of-way are not obtained as herein contemplated before construction begins, Contractor shall begin the Work upon and within such lands, easements and rights-of-way as Owner has at that time acquired.

5.02 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*

- 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas, or to improvements, structures, utilities, or similar facilities located at such adjacent lands or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible. Prior to commencement of Work in the vicinity of the property adjacent to the Site, the Contractor's own expense, shall take such surveys as may be necessary or expedient to establish the existing conditions of the property. Any damage or injury occurring to any property as a result of any act, omission or neglect on the part of the Contractor shall be repaired so that the property is restored in a proper and satisfactory manner, or replaced, by and at the expense of the Contractor, to an equal or superior condition than previously existed.
- 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.13, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or in a court of competent jurisdiction; and (c) to the fullest extent

permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.

- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris will conform to applicable Laws and Regulations. This includes, without limitation, appropriate sedimentation control measures, as applicable. During construction, the Contractor shall regularly remove from the Site all accumulated debris and surplus materials of any kind that result from its operations. Unused equipment and tools shall be stored at the Contractor's yard or base of operations for the Project. When the Work involves installation of sewers, drains, water mains, manholes, underground structures, or other disturbance of existing features in or across streets, rights of way, easements, or private property, the Contractor shall (as the Work progresses) promptly backfill, compact, grade, and otherwise restore the disturbed area to a basic condition that will permit resumption of pedestrian or vehicular traffic and any other essential activity or function consistent with the original use of the land. Unsightly mounds of earth, large stones, boulders, and debris shall be removed as promptly as possible so that the Site maintains a neat appearance.
- C. *Cleaning:* Prior to Substantial Completion of the Work Contractor shall clean the Site to a neat and orderly condition, meeting or exceeding its appearance prior to construction, and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents. Failure to clean and prepare the Site in accordance with this Paragraph shall forestall Contractor's right to receive its final payment of the Contract Price. At the Contract Time for full performance of the Work, if the cleaning and preparation is not complete, Owner may make arrangements for same with a third party. The Contractor shall reimburse the Owner for all costs associated with such work in a deduction in the Contract Price or by direct payment from the Contractor to the Owner, or a combination of both, at the option of the Owner.
- Cleanup:** All areas affected by the construction activities must be cleared of debris, surplus materials, and waste. This includes but is not limited to construction scraps, packaging materials, litter, and temporary structures.
- Removal of Erosion Control Measures:** Temporary erosion and sediment control measures implemented during the project must be carefully dismantled and removed by the Contractor, only after ensuring that the site is stable and receiving the approval by the governing agency, and that permanent erosion control measure are fully functional. This may require removal after final payment is made.
- D. *Loading of Structures:* Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

- E. Traffic to and from the Site: The Contractor shall maintain traffic to, from, and around the Site in accordance with the Town of Clayton "Standard Specifications and Details", Section 150 of the NCDOT "Standard Specifications for Roads and Structures" and the following provisions: At the end of each workday, the Contractor shall backfill, up to the edge and elevation of existing pavement, any area adjacent to the travel way that has a drop off of more than three (3) inches. The Contractor shall perform this work at no additional cost to the Owner. Access to the Site and properties adjacent to the Site shall be maintained at all times throughout the Project. Where driveways, mailboxes and/or other improvements are disturbed, temporary drives, mailboxes and/or other improvements if appropriate shall be installed immediately and maintained until such time as permanent repair to the driveways, mailboxes and/or other improvements is made. An ABC stone base shall be used to maintain temporary driveways. No additional payment shall be made by the Owner or other parties to the Contract for such temporary driveway construction and maintenance because such Work shall be considered incidental to the Contract and included in the Contract Price.
- F. Work in Streets, Highways and Other Rights of Way: Excavation, grading, fill, storm drainage, paving and any other construction or installations in rights of way of streets, highways, public carrier lines, utility lines (either aerial, surface or subsurface), and the like, shall be done in accordance with the applicable portions of the Specifications and the requirements of authorities having jurisdiction. The Owner shall make all arrangements with the proper authorities for such Work, including the obtaining of permits, and shall pay costs associated with such, with the exception of electrical permits, blasting permits and inspections. The Contractor shall keep a copy of all required permits on the Site at all times. The Contractor shall be responsible for all bonds required by the North Carolina Department of Transportation.
- G. Survey Markers; Monumentation: Contractor shall replace survey markers, such as property corners, right-of-way monuments and the like that are disturbed as a result of the Work, whether or not specifically identified in the Contract Documents, where property corners and/or right of way remain in the same location after the Work has been performed. If property corners and/or right-of-way line locations have been altered or established in connection with the Work, Contractor shall place survey markers, such as property corners, right-of-way monuments and the like, whether such Work is specifically identified in the Contract Documents. Such replacements and/or placements shall be performed by a North Carolina Professional Land Surveyor (PLS).
- H. Mail Service: Mail service shall not be interrupted by construction activities. In the event that mailboxes are relocated or temporarily removed, the Contractor must provide alternate methods as approved by the US Postal Service and the Owner for property owners to receive uninterrupted mail service. There will be no separate payments issued for alternate measures required to maintain mail service.
- I. Failure to Use Site as Directed: Failure to use the Project site in accordance with the terms of this and other Paragraphs of the Contract Documents shall forestall Contractor's right to receive interim payments and the final payment of the Contract Price. At Contract Times for performance of the Work, if the use of the site is not in compliance with these provisions, Owner may make arrangements to remedy the situation with third parties (arranging for clean-up of the site, for instance). The Contractor shall reimburse the Owner for all costs associated with such work in a deduction in the Contract Price or by direct payment from the Contractor to the Owner, or a combination of both, at the option of the Owner.
- J. Water for Construction: The Contractor shall be responsible for transporting water to the site. Water needed for construction of the Work may be obtained from the Town of Clayton Bulk Water Station. The Bulk Water Station is located at the Operations Center, 653 NC-42, Clayton, NC 27520. The Contractor and/or Subcontractors shall register their company with Water Resources during Pre-Construction

processes. The Contractor shall not operate any main valve or hire hydrant on the Town of Clayton water system.

K. Any apparent unexpected changes in groundwater or soil conditions at the Project Site during the course of the Work shall be reported to the Owner and then referred to the Owner's geotechnical engineering resource for the Project. If such resource has not already been identified at the time of discovery of the change in groundwater or soil conditions, the Contractor shall notify the Owner of such change and inquire as to what geotechnical engineering resource the matter should be referred (and then make such reference).

L. The Contractor is responsible for consistently informing the public, specifically those who own or live in private properties likely to be impacted by the construction activities. This encompasses notifying properties adjacent to or near the construction site, including those that may experience disruptions to utility services, increased noise, or dust, or where construction vehicles and materials may be temporarily stored.

To facilitate clear communication, the Engineer or Owner will issue a letter to all affected property owners during project planning, outlining the details of the project and how their properties might be impacted. Before starting work on the site, the Contractor will distribute door hangers to all residences or business within the impact area a minimum of three (3) days before any direct impacts occur due to the construction activities. Door hangers shall be provided to the Engineer or Owner for review and approval prior to distribution. The door hangers will detail the scope of the work and include contact information. Variables may apply per project scope and impacts. Regular updates to residents or businesses may be required and will be further outlined during the Pre-Construction Meeting.

In situations where utility services are expected to be disrupted, the Contractor will coordinate with the Town's Engineering Department, Town's Public Works and Utility Department, or any other relevant utility provider to ensure they are duly informed. An appropriate line of communication may be established during the Pre-Construction Meeting. Contractors must coordinate as such to allow residents and businesses a minimum of 72 hours' notice before any disruptions to services occur.

Costs associated with ALL such notification shall be considered incidental to the Contract and no separate payment will be made for this cost

5.03 *Subsurface and Physical Conditions*

A. *Reports and Drawings*: The Supplementary Conditions identify:

1. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data;
2. Those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data; and
3. Technical Data contained in such reports and drawings.

B. *Underground Facilities*: Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph 5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

C. *Reliance by Contractor on Technical Data*: Contractor in their discretion and at their sole risk may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.

D. *Limitations of Other Data and Documents*: Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings;
3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor:* If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site:
1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate;
 2. is of such a nature as to require a change in the Drawings or Specifications;
 3. differs materially from that shown or indicated in the Contract Documents; or
 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine whether it is necessary for Owner to obtain additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- E. *Possible Price and Times Adjustments*
1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or

any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. Such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise;
 - b. The existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice required by Paragraph 5.04.A.
 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.
- F. *Underground Facilities; Hazardous Environmental Conditions:* Paragraph 5.05 governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs 5.03 and 5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* Unless it is otherwise expressly provided in the Supplementary Conditions, the cost of all of the following are included in the Contract Price, and Contractor shall have full responsibility for:
1. reviewing and checking all information and data regarding existing Underground Facilities at the Site;

2. complying with applicable state and local utility damage prevention Laws and Regulations;
 3. verifying the actual location of those Underground Facilities shown or indicated in the Contract Documents as being within the area affected by the Work, by exposing such Underground Facilities during the course of construction;
 4. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 5. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated on the Drawings, or was not shown or indicated on the Drawings with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing regarding such Underground Facility.
- C. *Engineer's Review:* Engineer will:
1. promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy;
 2. identify and communicate with the owner of the Underground Facility; prepare recommendations to Owner (and if necessary issue any preliminary instructions to Contractor) regarding the Contractor's resumption of Work in connection with the Underground Facility in question;
 3. obtain any pertinent cost or schedule information from Contractor; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and
 4. advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.
- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the Underground Facility may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the Underground Facility in question and conditions affected by its presence have been adequately documented, and analyzed on a

preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.

F. *Possible Price and Times Adjustments*

1. Contractor ~~may~~ **shall** be entitled to an equitable adjustment in the Contract Price or Contract Times, to the extent that any existing Underground Facility at the Site that was not shown or indicated on the Drawings, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - b. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E; and
 - c. Contractor gave the notice required in Paragraph 5.05.B.
2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment will be set forth in a Change Order.
3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.
4. The information and data shown or indicated on the Drawings with respect to existing Underground Facilities at the Site is based on information and data (a) furnished by the owners of such Underground Facilities, or by others, (b) obtained from available records, or (c) gathered in an investigation conducted in accordance with the current edition of ASCE 38, Standard Guideline for the Collection and Depiction of Existing Subsurface Utility Data, by the American Society of Civil Engineers. If such information or data is incorrect or incomplete, Contractor's remedies are limited to those set forth in this Paragraph 5.05.F.

5.06 *Hazardous Environmental Conditions at Site*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site;
2. drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
3. Technical Data contained in such reports and drawings.

B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to

such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.

Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto;
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition

and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.

- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, as a result of such Work stoppage, such special conditions under which Work is agreed to be resumed by Contractor, or any costs or expenses incurred in response to the Hazardous Environmental Condition, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off. Entitlement to any such adjustment is subject to the provisions of Paragraphs 4.05.D, 4.05.E, 11.07, and 11.08.
- H. If, after receipt of such written notice, Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.
- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I obligates Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J obligates Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6—BONDS AND INSURANCE

Evidence of Bonds and Insurance Required Prior to the Work

All evidence of bonds and insurance required in this Article shall be provided prior to the Contractor or its Subcontractors commencing the Work or making or accepting delivery of materials or equipment to the Site. Evidence of the insurance provided to Owner shall include at a minimum a copy of the insurance policy with an endorsement naming the Owner as an additional insured. Failure of the Contractor to timely obtain and deliver evidence of bonds and insurance as described herein shall not excuse Contractor from adhering to the progress scheduling for the Work, and any such resulting failure of the Contractor to adhere to the Progress Schedule or the Contract Times shall entitle the Owner to such sanctions and remedies as are provided elsewhere in the Contract Documents for insufficient progress on the Work.

6.01 *Performance, Payment, and Other Bonds*

- A. Within fifteen (15) days of receiving delivery of the Notice of Award, Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of Contractor's obligations under the Contract. These bonds must remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the terms of a prescribed bond form, the Supplementary Conditions, or other provisions of the Contract.
- B. Contractor shall also furnish such other bonds (if any) as are required by the Supplementary Conditions or other provisions of the Contract.
- C. All bonds must be in the form included in the Bidding Documents or otherwise specified by Owner prior to execution of the Contract, except as provided otherwise by Laws or Regulations, and must be issued and signed by a surety named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Department Circular 570 (as amended and supplemented) by the Bureau of the Fiscal Service, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority must show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.
- D. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue bonds in the required amounts.
- E. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer in writing and shall, within 5 business~~20~~ days after the event giving rise to such notification, provide another bond and surety, both of which must comply with the bond and surety requirements above.

- F. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- G. Upon request to Owner from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Owner shall provide a copy of the payment bond to such person or entity.
- H. Upon request to Contractor from any Subcontractor, Supplier, or other person or entity claiming to have furnished labor, services, materials, or equipment used in the performance of the Work, Contractor shall provide a copy of the payment bond to such person or entity.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized in the state or jurisdiction in which the Project is located to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract, unless expressly allowed in the Supplementary Conditions.
- D. Contractor shall deliver to Owner, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Contractor has obtained and is maintaining the policies and coverages required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, full disclosure of all relevant exclusions, and evidence of insurance required to be purchased and maintained by Subcontractors or Suppliers. In any documentation furnished under this provision, Contractor, Subcontractors, and Suppliers may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those applicable to this Contract.
- E. Owner shall deliver to Contractor, with copies to each additional insured identified in the Contract, certificates of insurance and endorsements establishing that Owner has obtained and is maintaining the ~~policies and coverages required of Owner by the Contract (if any). Upon request by Contractor or any other~~ insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies, documentation of applicable self-insured retentions (if allowed) and deductibles, and full disclosure of all relevant exclusions. In any documentation furnished under this provision, Owner may block out (redact) (1) any confidential premium or pricing information and (2) any wording specific to a project or jurisdiction other than those relevant to this Contract.

- F. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, will not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- G. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.
- H. Contractor shall require:
 - 1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and Engineer (and any other individuals or entities identified in the Supplementary Conditions as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
 - 2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.
- I. If either party does not purchase or maintain the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- J. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate set-off against payment for any associated costs (including but not limited to the cost of purchasing necessary insurance coverage), and exercise Owner's termination rights under Article 16.
- K. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect (but is in no way obligated) to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price will be adjusted accordingly.
- L. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.
- M. The insurance and insurance limits required herein will not be deemed as a limitation on Contractor's liability, or that of its Subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract or otherwise.
- N. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or

renewal refused, until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

O. The insurance required to be provided by the Contractor (except Workers Compensation and Employer's Liability insurance) shall name the certificate holder (and additional insured) should read as follows:

Town of Clayton

Attention Town Manager

PO Box 879

Clayton, NC 27528

Certificate of Insurance - Description of Operations must state the following:

The Town of Clayton is named additional insured on the Commercial, General, Auto and Umbrella Liability as it pertains to the Contract.

6.03 Contractor's Insurance

- A. *Required Insurance:* Contractor shall purchase and maintain Worker's Compensation, Commercial General Liability, and other insurance pursuant to the specific requirements of the Supplementary Conditions.
- B. *General Provisions:* The policies of insurance required by this Paragraph 6.03 as supplemented must:
1. include at least the specific coverages required;
 2. be written for not less than the limits provided, or those required by Laws or Regulations, whichever is greater;
 3. remain in effect at least until the Work is complete (as set forth in Paragraph 15.06.D), and longer if expressly required elsewhere in this Contract, and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract;
 4. apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable; and
 5. include all necessary endorsements to support the stated requirements.

- C. *Additional Insureds*: The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies, if required by this Contract, must:
1. include and list as additional insureds Owner and Engineer, and any individuals or entities identified as additional insureds in the Supplementary Conditions;
 2. include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
 3. afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);
 4. not seek contribution from insurance maintained by the additional insured; and
 5. as to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.
- D. The Contractor shall provide to the Owner, upon request, insurance certificates and endorsements or other evidence that all Subcontractors are carrying the required insurance. In lieu of each Subcontractor being required to carry the necessary insurance, the Contractor may insure the activities of its Subcontractors under its policy(ies). In such case, evidence of such coverage shall be provided on the Contractor's insurance certificates. Subcontractors shall in all cases, however, provide workers' compensation and employer's liability insurance and motor vehicle liability insurance.
- E. An authorized representative of the insurance company(ies) providing coverage required herein shall certify that all of the required insurance coverages and amounts specified in the Contract Documents are provided by the submitted policies. The certification shall be signed by the authorized representatives of the insurance company(ies) and notarized. The authorized representative of the insurance company(ies) shall specifically indicate with the submittal which of the policies submitted fulfill which specific coverage and amounts specified per the Contract. The certification, including the correlation, shall be furnished and included with the insurance certificates and insurance endorsements so effecting such coverage. One (1) copy of each such insurance policy and endorsements and the certificates indicating each type of coverage mentioned, and the correlation between the insurance furnished and that required, shall be provided to each insured party.

6.04 *Builder's Risk and Other Property Insurance*

- A. *Builder's Risk*: Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth in the Supplementary Conditions.

- B. *Property Insurance for Facilities of Owner Where Work Will Occur*: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, providing coverage consistent with that required for the builder's risk insurance, and will be maintained until the Work is complete, as set forth in Paragraph 15.06.D.
- C. *Property Insurance for Substantially Complete Facilities*: Promptly after Substantial Completion, and before actual occupancy or use of the substantially completed Work, Owner will obtain property insurance for such substantially completed Work, and maintain such property insurance at least until the Work is complete, as set forth in Paragraph 15.06.D. Such property insurance will be written on a special perils (all-risk) form, on a replacement cost basis, and provide coverage consistent with that required for the builder's risk insurance. The builder's risk insurance may terminate upon written confirmation of Owner's procurement of such property insurance.
- D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work, as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide advance notice of such occupancy or use to the builder's risk insurer, and obtain an endorsement consenting to the continuation of coverage prior to commencing such partial occupancy or use.
- E. *Insurance of Other Property; Additional Insurance*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, then the entity or individual owning such property item will be responsible for insuring it. If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.04, it may do so at Contractor's expense.

6.05 *Property Losses; Subrogation*

- A. The builder's risk insurance policy purchased and maintained in accordance with Paragraph 6.04 (or an installation floater policy if authorized by the Supplementary Conditions), will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.
 - 1. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified in the Supplementary Conditions as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.

2. None of the above waivers extends to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Any property insurance policy maintained by Owner covering any loss, damage, or consequential loss to Owner's existing structures, buildings, or facilities in which any part of the Work will occur, or to which any part of the Work will attach or adjoin; to adjacent structures, buildings, or facilities of Owner; or to part or all of the completed or substantially completed Work, during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06, will contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of recovery against any insureds thereunder, or against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them, and that the insured is allowed to waive the insurer's rights of subrogation in a written contract executed prior to the loss, damage, or consequential loss.
1. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from fire or any of the perils, risks, or causes of loss covered by such policies.
- C. The waivers in this Paragraph 6.05 include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.
- D. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

6.06 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of property insurance required by Paragraph 6.04 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named

insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.04 shall maintain such proceeds in a segregated account, and distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.

- C. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

ARTICLE 7—CONTRACTOR'S RESPONSIBILITIES

7.01 *Contractor's Means and Methods of Construction*

- A. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. If the Contract Documents note, or Contractor determines, that professional engineering or other design services are needed to carry out Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures, or for Site safety, then Contractor shall cause such services to be provided by a properly licensed design professional, at Contractor's expense. Such services are not Owner-delegated professional design services under this Contract, and neither Owner nor Engineer has any responsibility with respect to (1) Contractor's determination of the need for such services, (2) the qualifications or licensing of the design professionals retained or employed by Contractor, (3) the performance of such services, or (4) any errors, omissions, or defects in such services.

7.02 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. unless the Contractor knew or should have known of the flaw in the design or specification at the time of the making of the Agreement and failed to notify the Owner and the Engineer thereof. Contractor shall be responsible to see that the completed Work complies with the Contract Documents.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who will not be replaced without written notice to Owner and Engineer, such notice to include name and resume of replacement, except under extraordinary circumstances.
- C. Project Manager and Superintendent: the Contractor's project manager and the Contractor's superintendent shall be full-time employees of the Contractor. The project manager and the superintendent shall each have a minimum of five years' experience constructing projects similar to the Project. The project manager's and the superintendent's previous work performances must, respectively, be acceptable to the Owner as to quality of workmanship and time of performance. The Contractor shall submit resumes of the project manager and the superintendent to the Owner at the time the Contract is signed. If either person is or

becomes unacceptable to the Owner, the Contractor, upon written demand by the Owner, shall promptly remove the unacceptable person and shall appoint a replacement satisfactory to the Owner.

7.03 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall maintain good discipline and order at the Site
- B. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of Contractor's employees; of Suppliers and Subcontractors, and their employees; and of any other individuals or entities performing or furnishing any of the Work, just as Contractor is responsible for Contractor's own acts and omissions.
- C. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site will be performed during regular working hours, Monday through Friday between the hours of 7:00 a.m. and 5:00 p.m..~~Contractor will not perform Work on a Saturday, Sunday, or any Town of Clayton recognized holiday per the adopted holiday schedule.~~ Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or Town of Clayton ~~recognized holiday~~recognized holiday per the adopted holiday schedule only with Owner's written consent, which will not be unreasonably withheld.

7.04 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work must be new and of good quality, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications will expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment must be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.05 *"Or Equals"*

- A. *Contractor's Request; Governing Criteria:* Whenever an item of equipment or material is specified or described in the Contract Documents by using the names of one or more

proprietary items or specific Suppliers, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. It is the intent of the parties that the Contractor shall provide materials of the highest standard known to the trade and to provide materials free from defects in workmanship and product. Unless the specification or description contains or is followed by words reading that no like, equivalent, or “or equal” item is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material, or items from other proposed Suppliers, under the circumstances described below.

1. If Engineer in its sole discretion determines that an item of equipment or material proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer will deem it an “or equal” item. For the purposes of this paragraph, a proposed item of equipment or material will be considered functionally equal to an item so named if:
 - a. in the exercise of reasonable judgment Engineer determines that the proposed item:
 - 1) is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) has a proven record of performance and availability of responsive service; and
 - 4) is not objectionable to Owner.
 - b. Contractor certifies that, if the proposed item is approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) the item will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor’s Expense*: Contractor shall provide all data in support of any proposed “or equal” item at Contractor’s expense.
- C. *Engineer’s Evaluation and Determination*: Engineer will be allowed a reasonable time to evaluate each “or-equal” request. Engineer may require Contractor to furnish additional data about the proposed “or-equal” item. Engineer will be the sole judge of acceptability. No “or-equal” item will be ordered, furnished, installed, or utilized until Engineer’s review is complete and Engineer determines that the proposed item is an “or-equal,” which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer’s Determination*: Neither approval nor denial of an “or-equal” request will result in any change in Contract Price. The Engineer’s denial of an “or-equal” request will be final and binding, and may not be reversed through an appeal under any provision of the Contract.

- E. *Treatment as a Substitution Request*: If Engineer determines that an item of equipment or material proposed by Contractor does not qualify as an “or-equal” item, Contractor may request that Engineer consider the item a proposed substitute pursuant to Paragraph 7.06.

7.06 Substitutes

- A. *Contractor’s Request; Governing Criteria*: Unless the specification or description of an item of equipment or material required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of equipment or material under the circumstances described below. To the extent possible such requests must be made before commencement of related construction at the Site.
1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of equipment or material from anyone other than Contractor.
 2. The requirements for review by Engineer will be as set forth in Paragraph 7.06.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
 3. Contractor shall make written application to Engineer for review of a proposed substitute item of equipment or material that Contractor seeks to furnish or use at least 15 working days before such substitute item of material or equipment is to be brought to the Site. The application shall include sufficient documentation and samples to allow the Engineer to determine the acceptability of the proposed substitute item of material or equipment.
The application:
 - a. will certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design;
 - 2) be similar in substance to the item specified; and
 - 3) be suited to the same use as the item specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times;
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item; and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.

- c. will identify:
 - 1) all variations of the proposed substitute item from the item specified; and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. will contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed 15 Working days~~a reasonable time~~ to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request will be final and binding, and may not be reversed through an appeal under any provision of the Contract. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.06.D, by timely submittal of a Change Proposal.

7.07 *Concerning Subcontractors and Suppliers*

- A. Contractor shall make a good faith effort to utilize minority business enterprises (MBEs) per North Carolina General Statutes Section 143-128, et seq., as Subcontractor for the Work. Contractor shall submit for approval to the Owner and the Engineer, within ten (10) days after the issuance of the Notice of Award, a list of the names of Subcontractors and Suppliers of principal items of material and equipment. Contractor shall also submit for approval to the Owner and the Engineer a list of the names of any additional or replacement Subcontractors

and Suppliers the Contractor wishes to use in connection with the Project prior to utilizing their services. The Engineer or Owner shall notify the Contractor within ten (10) days after receipt of the list of any reasonable objections to any Subcontractor or Supplier. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner. The Contractor's retention of a Subcontractor or Supplier for the performance of parts of the Work will not relieve Contractor's obligation to Owner to perform and complete the Work in accordance with the Contract Documents.

- B. Contractor shall retain specific Subcontractors and Suppliers for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor or Supplier to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within 5 days.
- E. Owner may require the replacement of any Subcontractor or Supplier. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors or Suppliers for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor or Supplier so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor or Supplier.
- F. If Owner requires the replacement of any Subcontractor or Supplier retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor or Supplier, whether initially or as a replacement, will constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis, Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors and Suppliers.

- J. The divisions and sections of the Specifications and the identifications of any Drawings do not control Contractor in dividing the Work among Subcontractors or Suppliers, or in delineating the Work to be performed by any specific trade.
- K. All Work performed for Contractor by a Subcontractor or Supplier must be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract for the benefit of Owner and Engineer.
- L. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor for Work performed for Contractor by the Subcontractor or Supplier.
- M. Contractor shall restrict all Subcontractors and Suppliers from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed in this Contract.

7.08 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If an invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights will be disclosed in the Contract Documents.
- B. ~~Intentionally Omitted To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.~~
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents. In the event of any claim or action by law on account of such patents or fees, it is agreed that the Owner may retain out of the monies that are due or that may become due

to the Contractor under this Contract, a sum of money sufficient to protect the Owner against loss, and to set aside the same until said claims are paid or are satisfactorily adjusted.

7.09 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits, licenses, and certificates of occupancy. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

B. **Blasting Permit** - Blasting is the use of explosives for excavation, demolition, or rock production. A Blasting Permit is required any time the project requires transportation, use or storage of explosive materials. This permit is required a minimum 2 days prior to the transportation or use of blasting materials. Permits shall be applied for through the Town of Clayton Development Services Team.

7.10 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work. Contractor to submit with each Application for Payment the State of North Carolina Sales and Use Tax Report. Figures shall not include any tax paid on supplies, tools and equipment which were used to perform the work and only to include construction materials, supplies, fixtures, and equipment which actually become a permanent part of the project. Documentary evidence supporting sales and use reporting, including copies of invoices for which the statement is being submitted, with invoice number indexed to the statement.

7.11 *Laws and Regulations*

- A. Contractor shall ~~give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work at all times, observe and comply with and shall cause all of its agents and employees and all of its Subcontractors to observe and comply with all such existing Laws or Regulations. The Contractor shall protect and indemnify the Owner and the Engineer and the municipalities and counties in which Work is being performed, and their officers and agents, against any claim, fee, civil penalty, fine or liability arising from or based on the violation of any such Law or Regulation, whether by the Contractor or its employees or any of its Subcontractors. Except where otherwise expressly required by applicable Laws and~~ Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor observes that the Specifications or Drawings are at variance with any Laws or Regulations, Contractor shall give Engineer prompt written notice thereof. If Contractor performs any Work or takes any other action knowing or having reason to know that it is

contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It is not Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this does not relieve Contractor of its obligations under Paragraph 3.03.

- C. Owner or Contractor may give written notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such written notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

D. Fines for Noncompliance with Sedimentation and Erosion Control Regulations: The Contractor should be aware that State laws and Town ordinances provide for the imposition of fines and other civil penalties for the failure to properly plan, implement and maintain appropriate sedimentation and erosion control practices. The Contractor shall be familiar with all applicable sedimentation and erosion control regulations and shall follow and abide by them closely. Applicable regulations include (by way of illustration and not limitation) North Carolina General Statutes Section 113A-50 et seq. and NCDEQ. Violations of such regulations include (by way of illustration and not limitation) grading without prior receipt of a valid grading permit or in a manner inconsistent with such permit, failure to take reasonable measures to protect public or private property from damage caused by failure to retain sediment on site, failure to install adequate erosion and sedimentation control devices, failure to maintain temporary and/or permanent erosion control measures, failure to protect exposed slopes, failure to provide adequate ground cover, failure to revise the erosion and sedimentation control plan after notification of the need to do so, failure to keep dirt and mud off of public streets, and failure to maintain slopes. Sedimentation and erosion control laws and ordinances shall be considered among the Laws and Regulations described in Paragraph 6.09.B hereof, and Contractor shall perform all Work so as to be in compliance with same and pay all fees, fines and civil penalties in connection with the violation(s) of same that do occur. This provision is intended to call Contractor's attention to State and Town sedimentation and erosion control plans, and nothing herein is intended to impliedly limit the types of regulations deemed to be Laws and Regulations herein, nor is anything herein intended to limit the applicability of Paragraph 7.11A or 7.11B as to sedimentation and erosion control laws.

7.12 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction (as-builts). These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer. Failure to furnish the Engineer with accurate and detailed record documents shall be grounds for withholding final payment until such record documents have been properly furnished.
- B. Contractor shall maintain "as-built" record drawings, current with the progress of the Work on the Project Site, available for inspection on site, and shall provide them to the Engineer and the Owner prior to Substantial Completion.

7.13 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work and shall be solely and completely responsible for conditions of the Site, including the safety of all persons and property at the Site, preparatory to and during performance of the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations.
- B. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.
- C. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- D. All damage, injury, or loss to any property referred to in Paragraph 7.13.C.2 or 7.13.C.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any

of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- E. Contractor shall comply with all applicable Laws and Regulations including such safety regulations as may be prescribed from time to time by the Engineer, the Owner or local authorities having jurisdiction, relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection; and shall, when so directed by the Engineer or the Owner, properly correct any unsafe conditions created by, or unsafe practices being committed on the part of its employees, Subcontractors, Suppliers or any individual or entity directly or indirectly employed by any of them. The Contractor shall fully comply with any and all applicable portions of the latest revision of the North Carolina Department of Transportation Utilities Unit "Utilities Accommodation Manual occupied in the Right of Way". In the event of the Contractor's failure to comply with any of the safety precautions referenced herein or in the Contract Documents, the Engineer or Owner may take the necessary measures to correct the conditions or practices complained of; and all costs thereof will be deducted from the Contract Price due the Contractor. Failure of the Engineer to direct the correction of unsafe conditions or practices shall not relieve the Contractor of its responsibility hereunder-
- F. Contractor shall notify Owner; the owners of adjacent property; the owners of Underground Facilities and other utilities (if the identity of such owners is known to Contractor); and other contractors and utility owners performing work at or adjacent to the Site, in writing, when Contractor knows that prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- G. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. Any Owner's safety programs that are applicable to the Work are identified or included in the Supplementary Conditions or Specifications.
- H. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- I. Contractor's duties and responsibilities for safety and protection will continue until all the Work is completed, Engineer has issued a written notice to Owner and Contractor in accordance with Paragraph 15.06.C that the Work is acceptable, and Contractor has left the Site (except as otherwise expressly provided in connection with Substantial Completion).
- J. Contractor's duties and responsibilities for safety and protection of the Work and those people and property that come into contact with the Work will resume, even during non-working hours, whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

- K. In the event of any claims for damage or alleged damage to persons or property as a result of Work under this Contract, the Contractor shall be responsible for all costs in connection with the settlement of or defense against such claims. Before final payment to the Contractor is made under the Contract, the Contractor shall furnish satisfactory evidence that all claims for damage have been legally settled or that sufficient funds to cover such claims have been placed in escrow, or that an adequate bond to cover such claims has been obtained.
- L. The Construction Documents and the joint and several phases of construction contemplated by the Construction Documents are to be governed at all times by applicable provisions of local and State laws, ordinances and regulations and Federal laws, including but not limited to the latest amendments of the Department of Labor, Bureau of Labor Standards, Safety and Health Regulations for Construction; and Williams and Steiger Occupational Safety and Health Act of 1970, including rules and regulations issued pursuant thereto (OSHA), applicable to the Work and performance of the Contract. Where applicable to the Work, in addition to the requirements of the General Conditions, as supplemented by the Supplementary Conditions, if any, the Contractor shall fully comply with any and all applicable portions of the Division of Highway "Policies and Procedures for Accommodating Utilities on Highway Right of Way" or latest revision. The duty of the Engineer to conduct a construction review of the Contractor's performance is not intended to include a review of the adequacy of the Contractor's safety measures in, on, or near the Site.

7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of safety data sheets (formerly known as material safety data sheets) or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.
- B. Contractor shall notify the Owner immediately, and no event more than twenty-four hours later, after an emergency has occurred if an emergency compromising the safety of persons or property at the Site has occurred

7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused by an emergency, or are required as a result of Contractor's response to an emergency. If Engineer determines that a change in the Contract Documents is required because of an emergency or Contractor's response, a Work Change Directive or Change Order will be issued.

7.16 *Submittals*

- A. *Shop Drawing and Sample Requirements*
1. Before submitting a Shop Drawing or Sample, Contractor shall:
 - a. review and coordinate the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;

- b. determine and verify:
 - 1) all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect to the Submittal;
 - 2) the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - 3) all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto;
 - c. confirm that the Submittal is complete with respect to all related data included in the Submittal.
- 2. Each Shop Drawing or Sample must bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that Submittal, and that Contractor approves the Submittal.
 - 3. With each Shop Drawing or Sample, Contractor shall give Engineer specific written notice of any variations that the Submittal may have from the requirements of the Contract Documents. This notice must be set forth in a written communication separate from the Submittal; and, in addition, in the case of a Shop Drawing by a specific notation made on the Shop Drawing itself.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall label and submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals.
- 1. *Shop Drawings*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings must be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide, and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.C.
 - 2. *Samples*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the Submittal for the limited purposes required by Paragraph 7.16.C.

3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Engineer's Review of Shop Drawings and Samples* EXCEPT AS OTHERWISE STATED IN OWNER & ENGINEERS CONTRACT
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the accepted Schedule of Submittals. Engineer's review and approval will be only to determine if the items covered by the Submittals will, after installation or incorporation in the Work, comply with the requirements of the Contract Documents, and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction, or to safety precautions or programs incident thereto.
 3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
 4. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order or other appropriate Contract modification.
 5. Engineer's review and approval of a Shop Drawing or Sample will not relieve Contractor from responsibility for complying with the requirements of Paragraphs 7.16.A and B.
 6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, will not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
 7. Neither Engineer's receipt, review, acceptance, or approval of a Shop Drawing or Sample will result in such item becoming a Contract Document.
 8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.C.4.
- D. *Resubmittal Procedures for Shop Drawings and Samples*
1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous Submittals.

2. Contractor shall furnish required Shop Drawing and Sample submittals with sufficient information and accuracy to obtain required approval of an item with no more than two resubmittals. Engineer will record Engineer's time for reviewing a third or subsequent resubmittal of a Shop Drawing or Sample, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges.
 3. If Contractor requests a change of a previously approved Shop Drawing or Sample, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.
- E. *Submittals Other than Shop Drawings, Samples, and Owner-Delegated Designs*
1. The following provisions apply to all Submittals other than Shop Drawings, Samples, and Owner-delegated designs:
 - a. Contractor shall submit all such Submittals to the Engineer in accordance with the Schedule of Submittals and pursuant to the applicable terms of the Contract Documents.
 - b. Engineer will provide timely review of all such Submittals in accordance with the Schedule of Submittals and return such Submittals with a notation of either Accepted or Not Accepted. Any such Submittal that is not returned within the time established in the Schedule of Submittals will be deemed accepted.
 - c. Engineer's review will be only to determine if the Submittal is acceptable under the requirements of the Contract Documents as to general form and content of the Submittal.
 - d. If any such Submittal is not accepted, Contractor shall confer with Engineer regarding the reason for the non-acceptance, and resubmit an acceptable document.
 2. Procedures for the submittal and acceptance of the Progress Schedule, the Schedule of Submittals, and the Schedule of Values are set forth in Paragraphs 2.03, 2.04, and 2.05.
- F. *Owner-delegated Designs: Submittals pursuant to Owner-delegated designs are governed by the provisions of Paragraph 7.19.*

7.17 Contractor's General Warranty and Guarantee

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer is entitled to rely on Contractor's warranty and guarantee.
- B. Owner's rights under this warranty and guarantee are in addition to, and are not limited by, Owner's rights under the correction period provisions of Paragraph 15.08. The time in which Owner may enforce its warranty and guarantee rights under this Paragraph 7.17 is limited

only by applicable Laws and Regulations restricting actions to enforce such rights; provided, however, that after the end of the correction period under Paragraph 15.08:

1. Owner shall give Contractor written notice of any defective Work within 60 days of the discovery that such Work is defective; and
 2. Such notice will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the notice.
- C. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
1. abuse, or improper modification, maintenance, or operation, by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- D. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents, a release of Contractor's obligation to perform the Work in accordance with the Contract Documents, or a release of Owner's warranty and guarantee rights under this Paragraph 7.17:
1. Observations by Engineer;
 2. Recommendation by Engineer or payment by Owner of any progress or final payment;
 3. The issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. Use or occupancy of the Work or any part thereof by Owner;
 5. Any review and approval of a Shop Drawing or Sample submittal;
 6. The issuance of a notice of acceptability by Engineer;
 7. The end of the correction period established in Paragraph 15.08;
 8. Any inspection, test, or approval by others; or
 9. Any correction of defective Work by Owner.
- E. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract will govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from losses,

damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.

- B. In any and all claims against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A will not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

7.19 *Delegation of Professional Design Services*

- A. Owner may require Contractor to provide professional design services for a portion of the Work by express delegation in the Contract Documents. Such delegation will specify the performance and design criteria that such services must satisfy, and the Submittals that Contractor must furnish to Engineer with respect to the Owner-delegated design.
- B. Contractor shall cause such Owner-delegated professional design services to be provided pursuant to the professional standard of care by a properly licensed design professional, whose signature and seal must appear on all drawings, calculations, specifications, certifications, and Submittals prepared by such design professional. Such design professional must issue all certifications of design required by Laws and Regulations.
- C. If a Shop Drawing or other Submittal related to the Owner-delegated design is prepared by Contractor, a Subcontractor, or others for submittal to Engineer, then such Shop Drawing or other Submittal must bear the written approval of Contractor's design professional when submitted by Contractor to Engineer.
- D. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, and approvals performed or provided by the design professionals retained or employed by Contractor under an Owner-delegated design, subject to the professional standard of care and the performance and design criteria stated in the Contract Documents.
- E. Pursuant to this Paragraph 7.19, Engineer's review, approval, and other determinations regarding design drawings, calculations, specifications, certifications, and other Submittals

furnished by Contractor pursuant to an Owner-delegated design will be only for the following limited purposes:

1. Checking for conformance with the requirements of this Paragraph 7.19;
 2. Confirming that Contractor (through its design professionals) has used the performance and design criteria specified in the Contract Documents; and
 3. Establishing that the design furnished by Contractor is consistent with the design concept expressed in the Contract Documents.
- F. Contractor shall not be responsible for the adequacy of performance or design criteria specified by Owner or Engineer.
- G. Contractor is not required to provide professional services in violation of applicable Laws and Regulations.

ARTICLE 8—OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any third-party utility work that Owner has arranged to take place at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford proper and safe access to the Site to each contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work.
- D. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- E. If the proper execution or results of any part of Contractor's Work depends upon work performed by others, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work.

Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

- F. The provisions of this article are not applicable to work that is performed by third-party utilities or other third-party entities without a contract with Owner, or that is performed without having been arranged by Owner. If such work occurs, then any related delay, disruption, or interference incurred by Contractor is governed by the provisions of Paragraph 4.05.C.3.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. The identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. An itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. The extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. ~~If, in the course of performing other work for Owner at or adjacent to the Site, the Owner's employees, any other contractor working for Owner, or any utility owner that Owner has arranged to perform work, causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment will take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract, and any remedies available to Contractor under Laws or Regulations concerning utility action or inaction. When applicable, any such equitable adjustment in Contract Price will be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times or Contract Price is subject to the provisions of Paragraphs 4.05.D and 4.05.E.~~ **In the event of unreasonable delay by any contractor under direct contract with Owner to provide**

work on this Project, Contractor shall pursue payment directly from such other contractor for any reasonable direct delay and disruption costs incurred by the Contractor as a result of such other contractor's wrongful actions or inactions. Claims by the Contractor against such other contractors shall first be submitted to Engineer for its review and approval. The Engineer shall forward its recommendations regarding such claims to the Owner. The Owner shall not bear any responsibility to the Contractor for such costs unless it has specifically instructed the other contractor to act in the manner causing such costs

- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site.
1. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this Paragraph 8.03.B.
 2. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due Contractor.
- C. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions or any Supplementary Conditions, and unless Owner is also acting as the Engineer or the inspector for the Project, Owner shall

- issue all communications to Contractor through Engineer or shall copy Engineer on its direct correspondence with the Contractor.
- 9.02 *Replacement of Engineer*
- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents will be that of the former Engineer.
- 9.03 *Furnish Data*
- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.
- 9.04 *Pay When Due*
- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.
- 9.05 *Lands and Easements; Reports, Tests, and Drawings*
- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.
- 9.06 *Insurance*
- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.
- 9.07 *Change Orders*
- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.
- 9.08 *Inspections, Tests, and Approvals*
- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.
- 9.09 *Limitations on Owner's Responsibilities*
- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- 9.10 *Undisclosed Hazardous Environmental Condition*
- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10—ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. ~~Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.~~ Unless and until the Owner provides otherwise in writing to the Contractor, all instructions of the Engineer on behalf of the Owner during construction shall be executed promptly and efficiently by the Contractor and its Subcontractors. The authority of the Engineer is only to issue orders on behalf of the Owner hereunder, and Engineer has no authority to bind Owner with respect to any documentation to be executed by Owner. Furthermore, Engineer's recommendations and approvals under the Contract Documents do not bind the Owner and may be overruled by the Owner

10.02 *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe, as an experienced and qualified design professional, the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.07. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and

programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

C. After hours or weekend Work shall include only such tasks that do not require observation by the Engineer unless the Owner specifically authorizes otherwise in writing.

10.03 *Resident Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in ~~the Supplementary~~ these General Conditions, and limitations on the responsibilities thereof will be as provided in the Supplementary Conditions and in Paragraph 10.07.
- B. If Owner designates an individual or entity who is not Engineer's consultant, agent, or employee to represent Owner at the Site, then the responsibilities and authority of such individual or entity will be as provided in the Supplementary Conditions.

10.04 *Engineer's Authority*

- A. Engineer has the authority to reject Work in accordance with Article 14.
- B. Engineer's authority as to Submittals is set forth in Paragraph 7.16.
- C. Engineer's authority as to design drawings, calculations, specifications, certifications and other Submittals from Contractor in response to Owner's delegation (if any) to Contractor of professional design services, is set forth in Paragraph 7.19.
- D. Engineer's authority as to changes in the Work is set forth in Article 11.
- E. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.05 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.06 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.07 *Limitations on Engineer's Authority and Responsibilities*

- A. Except as, but only to the extent, specified in any separate agreement between the Owner and the Engineer, nNeither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, will create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Except as, but only to the extent, specified in any separate agreement between the Owner and the Engineer, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Except as, but only to the extent, specified in any separate agreement between the Owner and the Engineer, Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Except as, but only to the extent, specified in any separate agreement between the Owner and the Engineer, Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation, and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Contractor under Paragraph 15.06.A, will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.07 also apply to the Resident Project Representative, if any.
- F. The presence of the Engineer at the Site shall in no way lessen the Contractor's responsibility for conformity with the Drawings and Specifications. Failure of the Engineer to reject materials or Work that does not conform with the Drawings and Specifications, whether from lack of discovery or for any other reason, shall in no way prevent later rejection of or corrections to the unsatisfactory materials or Work when discovered. The Contractor shall have no claim for losses suffered due to any necessary removals or repairs resulting from unsatisfactory Work.

10.08 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs of which Engineer has been informed.

10.09 *Clarifications and Interpretations*

Engineer will issue with reasonable promptness such written clarifications and interpretations of the requirements of the Contract documents as Engineer may determine necessary, which shall be consistent with the intent of and reasonably inferable from the Contract Documents. Such written clarifications and interpretations will be binding on Owner and Contractor. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a written clarification or interpretation, a claim may be made therefore as provided in Article 12.

ARTICLE 11—CHANGES TO THE CONTRACT

11.01 *Amending and Supplementing the Contract*

- A. The Contract may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
- B. If an amendment or supplement to the Contract includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order.
- C. All changes to the Contract that involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, must be supported by Engineer's recommendation. Owner and Contractor may amend other terms and conditions of the Contract without the recommendation of the Engineer.

11.02 *Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
 - 1. Changes in Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 - 2. Changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 - 3. Changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.05, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work

involves the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters; and

4. Changes that embody the substance of any final and binding results under: Paragraph 11.03.B, resolving the impact of a Work Change Directive; Paragraph 11.09, concerning Change Proposals; Article 12, Claims; Paragraph 13.02.D, final adjustments resulting from allowances; Paragraph 13.03.D, final adjustments relating to determination of quantities for Unit Price Work; and similar provisions.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of Paragraph 11.02.A, it will be deemed to be of full force and effect, as if fully executed.

11.03 *Work Change Directives*

- A. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.07 regarding change of Contract Price.
- B. If Owner has issued a Work Change Directive and:
1. Contractor believes that an adjustment in Contract Times or Contract Price is necessary, then Contractor shall submit any Change Proposal seeking such an adjustment no later than 30 days after the completion of the Work set out in the Work Change Directive.
 2. Owner believes that an adjustment in Contract Times or Contract Price is necessary, then Owner shall submit any Claim seeking such an adjustment no later than 60 days after issuance of the Work Change Directive.

11.04 *Field Orders*

- A. Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly.
- B. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.05 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Changes involving the design (as set forth in the Drawings, Specifications, or otherwise) or other engineering or technical matters will be supported by Engineer's recommendation.

- B. Such changes in the Work may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work must be performed under the applicable conditions of the Contract Documents.
- C. Nothing in this Paragraph 11.05 obligates Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.06 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.C.2.

11.07 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment of Contract Price must comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 - 1. Where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03);
 - 2. Where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.07.C.2); or
 - 3. Where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.07.C).
- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit will be determined as follows:
 - 1. ~~Intentionally Omitted A mutually acceptable fixed fee; or~~
 - 2. ~~If a fixed fee is not agreed upon, then~~ a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. For costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee will be 15 percent;

- b. For costs incurred under Paragraph 13.01.B.3, the Contractor's fee will be 5 percent; based on the Subcontractor's Cost of Work.
- c. Where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.07.C.2.a and 11.07.C.2.b is that the Contractor's fee will be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of 5 percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted Work the maximum total fee to be paid by Owner will be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the Work;
- d. No fee will be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
- e. The amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in Cost of the Work will be the amount of the actual net decrease in Cost of the Work and a deduction of an additional amount equal to 5 percent of such actual net decrease in Cost of the Work; and
- f. When both additions and credits are involved in any one change or Change Proposal, the adjustment in Contractor's fee will be computed by determining the sum of the costs in each of the cost categories in Paragraph 13.01.B (specifically, payroll costs, Paragraph 13.01.B.1; incorporated materials and equipment costs, Paragraph 13.01.B.2; Subcontract costs, Paragraph 13.01.B.3; special consultants costs, Paragraph 13.01.B.4; and other costs, Paragraph 13.01.B.5) and applying to each such cost category sum the appropriate fee from Paragraphs 11.07.C.2.a through 11.07.C.2.e, inclusive.

11.08 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times must comply with the provisions of Paragraph 11.09. Any Claim for an adjustment in the Contract Times must comply with the provisions of Article 12.
- B. Delay, disruption, and interference in the Work, and any related changes in Contract Times, are addressed in and governed by Paragraph 4.05.

C. Pending and adjustment of the Contract Times pursuant to the terms of this Paragraph 11.08, the Contractor shall diligently continue all Work and adhere to the Progress Schedule and the Contract Times to the extent possible.

11.09 *Change Proposals*

- A. *Purpose and Content:* Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; contest an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of

the Work under the Contract Documents; challenge a set-off against payment due; or seek other relief under the Contract. The Change Proposal will specify any proposed change in Contract Times or Contract Price, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents. Each Change Proposal will address only one issue, or a set of closely related issues.

B. Change Proposal Procedures

1. *Submittal*: Contractor shall submit each Change Proposal to Engineer within 30 days after the start of the event giving rise thereto, or after such initial decision.
2. *Supporting Data*: The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal.
 - a. Change Proposals based on or related to delay, interruption, or interference must comply with the provisions of Paragraphs 4.05.D and 4.05.E.
 - b. Change proposals related to a change of Contract Price must include full and detailed accounts of materials incorporated into the Work and labor and equipment used for the subject Work.

The supporting data must be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event.

3. *Engineer's Initial Review*: Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal. If in its discretion Engineer concludes that additional supporting data is needed before conducting a full review and making a decision regarding the Change Proposal, then Engineer may request that Contractor submit such additional supporting data by a date specified by Engineer, prior to Engineer beginning its full review of the Change Proposal.
4. *Engineer's Full Review and Action on the Change Proposal*: Upon receipt of Contractor's supporting data (including any additional data requested by Engineer), Engineer will conduct a full review of each Change Proposal and, within 30 days after such receipt of the Contractor's supporting data, provide a written recommendation to the Owner~~either~~ approve the Change Proposal in whole, deny it in whole, or approve it in part and deny it in part. Such actions must be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.

5. Owner action on change proposal

Within 10 days, following receipt of Engineers written change proposal recommendation, Owner shall issue a final decision regarding the change proposal.

65. Binding Decision: ~~Owner's Engineer's~~ decision is final and binding upon ~~Owner and~~ Contractor, unless ~~Owner or~~ Contractor appeals the decision by filing a Claim under Article 12.

- C. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties in writing that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice will be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.
- D. *Post-Completion:* Contractor shall not submit any Change Proposals after Engineer issues a written recommendation of final payment pursuant to Paragraph 15.06.B.

11.10 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

ARTICLE 12—CLAIMS

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor are subject to the Claims process set forth in this article:
 - 1. Appeals by ~~Owner or~~ Contractor of ~~Owner's~~Engineer's decisions regarding Change Proposals;
 - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents;
 - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters; and
 - 4. Subject to the waiver provisions of Paragraph 15.07, any dispute arising after Engineer has issued a written recommendation of final payment pursuant to Paragraph 15.06.B.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim rests with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, Contractor shall certify that the Claim is made in good faith, that the

supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.

- C. *Review and Resolution*: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim will be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation*
 - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate will stay the Claim submittal and response process.
 - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process will resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process will resume as of the date of the conclusion of the mediation, as determined by the mediator.
 - 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action will be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim will be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim will be incorporated in a Change Order or other written document to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

H. If Contractor claims (1) that any work he/she has been ordered to do is not part of the Work required by the Contract Documents (hereinafter referred to as "Extra Work") and that he/she has performed or is going to perform Extra Work, or (2) that any action or omission of Owner or Engineer is contrary to the terms and provisions of the Contract Documents, Contractor shall:

I. Promptly comply with such order;

II. File with Engineer, within fourteen working days after being ordered to perform the work claimed by him/her to be Extra Work or within fourteen working days after commencing performance of the Extra Work, whichever date shall be the earlier, or within fourteen working days after the action or omission of the Owner or the Engineer occurred or was due, a written notice stating the basis of his/her claim and a request for a determination thereof.

III. File with Engineer thirty (30) calendar days after said alleged Extra Work was required to be performed or said alleged Extra Work was commenced, whichever date shall be earlier, or said alleged action or omission by Owner or Engineer occurred or was due, a verified detailed statement, with documentary evidence of the items and basis of his/her claim.

IV. Produce for Owner's examination, upon notice from Owner, all his/her books of account, bills, invoices, payrolls, subcontracts, time books, progress records, daily reports, bank deposit books, bank statements, checkbooks and canceled checks showing all of his/her actions and transactions in connection with or relating to or arising by reason of his/her claim, and submit himself/herself and persons in his/her employment and in his/her Subcontractor's employment for examination under oath by any person designated by Owner to investigate any claims made against Owner under the Contract, such examination to be made at the offices of Owner or Owner's agent;

V. Proceed diligently, pending, and subsequent to determination of Owner with respect to any such disputed matter, with the performance of the Contract and in accordance with all instructions of Owner and Engineer.

ARTICLE 13—COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. When needed to determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those

additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.

- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work will be in amounts no higher than those commonly incurred in the locality of the Project, will not include any of the costs itemized in Paragraph 13.01.C, and will include only the following items:
1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor in advance of the subject Work. Such employees include, without limitation, superintendents, foremen, safety managers, safety representatives, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work will be apportioned on the basis of their time spent on the Work. Payroll costs include, but are not limited to, salaries and wages plus the cost of fringe benefits, which include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, will be included in the above to the extent authorized by Owner.
 2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts will accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment will accrue to Owner, and Contractor shall make provisions so that they may be obtained.
 3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, which will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee will be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
 4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed or retained for services specifically related to the Work.
 5. Other costs consisting of the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, which are

consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.

- 1) In establishing included costs for materials such as scaffolding, plating, or sheeting, consideration will be given to the actual or the estimated life of the material for use on other projects; or rental rates may be established on the basis of purchase or salvage value of such items, whichever is less. Contractor will not be eligible for compensation for such items in an amount that exceeds the purchase cost of such item.

c. *Construction Equipment Rental*

- 1) Rentals of all construction equipment and machinery, and the parts thereof, in accordance with rental agreements approved by Owner as to price (including any surcharge or special rates applicable to overtime use of the construction equipment or machinery), and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs will be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts must cease when the use thereof is no longer necessary for the Work.
 - 2) Costs for equipment and machinery owned by Contractor or a Contractor-related entity will be paid at a rate shown for such equipment in the equipment rental rate book specified in the Supplementary Conditions. An hourly rate will be computed by dividing the monthly rates by 176. These computed rates will include all operating costs.
 - 3) With respect to Work that is the result of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price ("changed Work"), included costs will be based on the time the equipment or machinery is in use on the changed Work and the costs of transportation, loading, unloading, assembly, dismantling, and removal when directly attributable to the changed Work. The cost of any such equipment or machinery, or parts thereof, must cease to accrue when the use thereof is no longer necessary for the changed Work.
- d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
- e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
- f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work ~~(except losses and damages within the deductible amounts of builder's risk or other property insurance established in accordance with Paragraph 6.04)~~, provided and to the extent that such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them

may be liable. Such losses include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses will be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items, all of which must be in connection with and in furtherance of the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

C. *Costs Excluded:* The term Cost of the Work does not include any of the following items:

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals, general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. The cost of purchasing, renting, or furnishing small tools and hand tools.
- 3. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 4. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 5. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 6. Expenses incurred in preparing and advancing Claims.
- 7. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- 8. Any costs due to the Contractor, or the Subcontractors or Suppliers, not properly performing or supplying the Work, including, without limitation, not adhering to the Progress Schedule.

D. *Contractor's Fee*

- 1. When the Work as a whole is performed on the basis of cost-plus-a-fee, then:
 - a. Contractor's fee for the Work set forth in the Contract Documents as of the Effective Date of the Contract will be determined as set forth in the Agreement.

- b. for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work, Contractor's fee will be determined as follows:
 - 1) When the fee for the Work as a whole is a percentage of the Cost of the Work, the fee will automatically adjust as the Cost of the Work changes.
 - 2) When the fee for the Work as a whole is a fixed fee, the fee for any additions or deletions will be determined in accordance with Paragraph 11.07.C.2.
- 2. When the Work as a whole is performed on the basis of a stipulated sum, or any other basis other than cost-plus-a-fee, then Contractor's fee for any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.

3. The Contractor's fee shall not be applied to payroll taxes, social security contributions, or unemployment taxes.

- E. *Documentation and Audit:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

13.02 *Allowances*

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances:* Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.
- C. *Owner's Contingency Allowance:* Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

E. anything else apparently to the contrary in the Contract Documents or documentation referenced by the Contract Documents, there shall be no price indexing allowed. Unit prices are those specified in the Contract Documents or otherwise in effect at the time of the Invitation to Bid.

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written recommendation to Owner~~decision thereon (by recommendation of an Application for Payment or otherwise).~~ Owner's~~Engineer's~~ written decision thereon will be final and binding ~~(except as modified by Engineer to reflect changed factual conditions or more accurate data)~~ upon Owner and Contractor, and the final adjustment of Contract Price will be set forth in a Change Order, subject to the provisions of the following paragraph.

E. *Adjustments in Unit Price*

- 1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
 - a. the quantity of the item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
 - b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
- 2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
- 3. Adjusted unit prices will apply to all units of that item.

F. Contractor Acknowledges that the Contract Price includes Contractor's cost of bonds, insurance, transportation of materials, labor and equipment, general administration, and the like.

ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply with such procedures and programs as applicable.

14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work will be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval. Testing to be performed under the Contract Documents shall be performed in accordance with the North Carolina Department of Transportation "Materials and Tests acceptance criteria" and the Town of Clayton "Standard Specifications and Details". If and to the extent that the Town of Clayton testing standards conflict with and are more stringent than those of the North Carolina Department of Transportation, testing shall be performed in accordance with the Town of Clayton standards.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and

5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests will be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation and make available for inspection at the Contractor's expense. ~~Such uncovering will be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to cover the same and Engineer had not acted with reasonable promptness in response to such notice.~~
- G. The Contractor shall allow the Engineer ample time and opportunity for testing materials and equipment to be used in the Work. The Contractor shall advise the Engineer promptly upon placing orders for materials and equipment so that arrangements may be made, if desired by the Engineer, for inspection before shipment from the place of manufacture. The Contractor shall at all times furnish the Engineer and all Owner representative's appropriate facilities for performing inspections and tests, including any labor necessary, and shall allow proper time for inspecting and testing materials, equipment, and workmanship. In setting Contract Times and a Progress Schedule for the Work, the Contractor should anticipate that delays may be caused in the execution of Work due to the necessity of materials and equipment being inspected and accepted for use. The Contractor shall furnish, at its own expense, samples of all materials required by the Engineer for testing, and shall make its own arrangements for providing water, electric power, and/or fuel for the various inspections and tests of structures and equipment.
- H. The Contractor shall furnish the services of representatives of the manufacturers of certain equipment if so prescribed in the Specifications. The Contractor shall also place its orders for such equipment requiring that, after the equipment has been tested prior to final acceptance of the Work, the manufacturer shall furnish the Owner with certified statements that the equipment has been installed properly and is ready to be placed in functional operation. Tests and analyses required of equipment shall be paid for by the Contractor, unless specified otherwise in the Contract Documents.
- I. The Owner reserves the right to independently perform, at its own expense, laboratory tests on random samples of material or performance tests on equipment delivered to the Site. These tests if made shall be conducted in accordance with the Specification requirements or other appropriate standards. The entire shipment represented by any given sample or piece of equipment may be rejected on the basis of the failure of a sample or piece of equipment to meet specified test requirements. All rejected materials and equipment shall be removed from the Site, whether stored or installed in the Work, and the required replacement shall be made, all at no additional cost to the Owner.

J. Whenever nonconformance is discovered by the Engineer as a result of tests, inspections, or investigations, the Contractor shall bear responsibility for the full cost of such tests, whether otherwise required to pay for such tests, inspections or investigations under the Contract Documents, and shall directly pay for such services or shall reimburse the Owner for such costs. Once nonconformance has been discovered, the cost of any additional tests and investigations that are ordered by the Engineer to ascertain subsequent conformance with the Contract Documents shall be borne by the Contractor, whether or not the original tests, inspections, or investigations of such nonconforming Work were originally required by the Contract Documents to be borne by another party.

14.03 Defective Work

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Owner or Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt written notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, even if such Work has previously been overlooked by Engineer and estimated as a basis for payment, whether or not fabricated, installed, or completed, or, if Engineer or Owner has rejected the defective Work, remove it from the Project and replace it with Work that is not defective. At any time during the progress of the Work and up to the date of final acceptance, the Engineer shall have the right to reject any Work that does not conform to the requirements of the Contract Documents, even if such Work has been previously inspected and paid for. Any omissions or failure on the part of the Engineer to disapprove or reject any Work or materials at the time of inspection shall not be construed as an acceptance of any defective Work or materials.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work, unless Contractor first receives permission from Owner.-
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.
- G. The Engineer may order tests of imperfect or damaged Work, equipment, or materials to determine the required functional capability for possible acceptance, if there is no other reason for rejection. The cost of such tests shall be borne by the Contractor; and the nature, tester, extent and supervision of the tests shall be as determined by the Engineer. If the

results of the tests indicate that the required functional capability of the Work, equipment, or material was not impaired, then the Work, equipment, or materials may be deemed acceptable. If the results of such tests reveal that the required functional capability of questionable Work, equipment or materials have been impaired, then such Work, equipment, or materials shall be deemed imperfect and shall be replaced at the Contractor's expense. The Contractor may elect to replace the imperfect Work, equipment, or material immediately upon their identification as such in lieu of performing the tests for functional capability.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor and a proportionate amount of the Contractor's fee. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work will be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer or Owner has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer or Owner, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer or Owner considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's or Owner's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer or Owner may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.

2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work will not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace defective Work as required by Engineer, then Owner may, after 7 days' written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.
- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15—PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer or Owner. Progress payments for Unit Price Work will be

based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.

a. Where an itemized proposal is not required, the Contractor shall submit for the Engineer's approval a complete breakdown of all lump sum items in the Proposal. This breakdown, modified as directed by the Engineer, shall be used as a basis for preparing estimates and establishing progress payments. Partial payments for Mobilization may be made with the first and second partial pay estimates paid on the contract and can be made at the rate of 50% lump sum price on each partial pay estimate, provided the amount bid for Mobilization does not exceed 5% of the total amount bid for the contract, and provided that cost documents suitable to the Engineer is furnished by the Contractor. For either lump sum or itemized proposals, a lump sum payment equal to five percent (5%) of the total Contract Sum or Price (to include the actual cost of all bonds and insurance, move-on expenses, and the like) will be allowed for "mobilization" as a progress payment line item.

B. Applications for Payments

1. Once a month after the Work has commenced. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. The due date for submitting an Application for Payment shall be the 25th of the month for which the application is being made. Request for payment shall be submitted on the Town of Clayton standard payment form included in the Contract Documents, unless approved otherwise by the Engineer or Owner.
2. PAYMENT FOR MATERIAL TO BE USED IN THE WORK

A. Definition of Stored Materials: For the purpose of these General Conditions, "Stored Materials" refers to construction materials that have been purchased NEW by the contractor but have not yet been incorporated into the project.

General Requirements: Payments will not be made for fuel, supplies, form lumber, falsework, or used materials. Payments will not be made on seed or any living or perishable plant materials except when such material has been planted or otherwise incorporated into the work. Payments will not exceed 95% of the contract unit or lump sum prices for the work. Payment for material will not constitute acceptance, and Owner reserves the right to reject any faulty material even though previous payment may have been made.

Notice and Documentation: The Contractor shall provide written notice to the Owner prior to requesting payment for stored materials. The notice shall include but is not limited to the following:

- 1) Comprehensive list of stored materials,
- 2) Justification for payment,
- 3) Intended use in the project, and
- 4) Current location of material

Payment Approval: Payment for stored materials will be considered upon approval by the Owner, following the inspection and verification process. The Owner may withhold payment if discrepancies, damage, or other concerns are identified during the inspection. Stored materials shall be subject to the same retainage provisions as the completed work per Section 15.01B4.

Inspection and Verification: The Owner reserves the right to inspect stored materials before approving payment. Verification may include site visits, documentation review, and confirmation of storage conditions to ensure the quality and condition of the materials. Additionally, the Owner reserves the right to conduct intermittent inspections of the materials, with the timing and frequency at the Owner's discretion.

Risk Mitigation: The contractor assumes all risks associated with the stored materials until they are officially incorporated into the project. In the event of loss, damage, or theft of stored materials, the contractor shall be responsible for replacement or repair at no cost to Owner.

B. Material Delivered on the Project

When authorized by the Owner, partial payments will be made up to 95% of the delivered cost of materials on hand that are to be permanently incorporated in the work, provide that such materials have been delivered on or in close proximity to the project and stored in an acceptable manner. Material payments will be allowed when 95% of the accumulated costs of unpaid invoices are equal to or greater than \$50,000, materials have been inspected and approved by Owner, and the required documents listed under 15.01 B-2C have been furnished to the Owner.

C. Material Stored at Fabricator's Facilities or Contractor's Facilities

When authorized by the Owner, partial payment can be made up to 95% of the invoiced cost, exclusive of deliver cost, for bulky materials requiring fabrication at an off-site location that are durable in nature and represent a significant portion of the project cost, if it has been determined by the Owner, that the material cannot be reasonably stockpiled in the vicinity of the work. Material payments will be allowed when the materials have been inspected and

approved by the Owner and the required documents listed under 15.01 B-2C have been furnished to the Owner.

D. Required Documents:

- 1) Copy of invoice from material supplier (quantities, cost, and material must be clearly identified),
- 2) Written consent of surety to make such partial payment. The written consent must include a statement confirming that remittance of the advance payment will not relieve the sureties of any of their obligations under the Bonds.
- 3) Unconditional Lien Waiver warranting the Contractor has received the material free and clear of all liens, charges, security interest, and encumbrances,
- 4) Bill of Sale from Contractor to the Owner
- 5) Certificate of Insurance naming the Town as additional insured and insuring, at no cost to the Owner, stored material against theft, fire, loss, vandalism, and malicious mischief. Insurance shall cover the material while stored, in transit to the Site, while being off-loaded at the Site and until the material is incorporated into the Work.
- 6) Proof satisfactory to the Owner that offsite material is stored in a bonded warehouse or facility, which may include warehouse receipt or photograph containing a date and time stamp. Materials within the facility must be identified as being the "PROPERTY OF THE TOWN OF CLAYTON" (Applicable to material stored off-site)

E. Long Lead Items: In instances where Contractor identifies items with extended lead times (Long Lead Items) that are essential for the timely completion of the project, Contractor is obligated to promptly inform the Owner. This notification should include detailed information about the specific materials required and the anticipated schedule for their procurement. The Owner may, at their sole discretion, authorize partial payments. These payments will be limited to a specified percentage of the cost of the materials, excluding any delivery charges. Required documents where applicable listed under 15.01C shall be furnished to the Owner.

~~If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment must also be accompanied by: (a) a bill of sale, invoice, copies of subcontract or purchase order payments, or other documentation establishing full payment by Contractor for the materials and equipment; (b) at Owner's request, documentation warranting that Owner has received the materials and equipment free and clear of all Liens; and (c) evidence that the materials and equipment are covered by appropriate property~~

~~insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.~~

3. Beginning with the second Application for Payment, each Application must include an affidavit of Contractor and all Subcontractors who have performed Work or are otherwise receiving payment under the Application for Payment, stating that all previous progress payments received by Contractor have been applied to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
4. ~~The amount of retainage with respect to progress payments will be as stipulated in the Agreement.~~ Retainage shall be five percent (5%) of any periodic payment due Contractor except as otherwise described below:
 - a. When the Contractor's gross project invoices (less the value of materials stored off-site and the value of materials stored on-site that exceed 20% of the gross project invoices) equal or exceed 50% of the value of the Contract (i.e. the Work is fifty percent (50%) complete), then, with the consent of the surety and if the manner of completion of the Work and its progress are and remain satisfactory and all corrected work to that point has been accepted, Owner will not retain any further retainage from periodic payments unless Owner thereafter determines (i) performance or progress is not satisfactory, (ii) defective construction is not remedied, (iii) there is disputed work or (iv) third-party claims have been or are reasonably expected to be filed against the Owner. If (i), (ii) (iii) or (iv) above occur, Owner shall withhold additional retainage from periodic payments, not to exceed 5% of such payment, in order to allow Owner to retain 2.5% total retainage through the completion of the project.
 - b. Within sixty days after submission of a pay request and the occurrence of one of the following: (i) receipt by owner of a certificate of substantial completion and Owner can occupy or use the project, or (ii) actual beneficial occupancy or use of the project, then Owner, with written consent of the surety, shall release to the Contractor all retainages held on work completed to date.
 - c. However, the Owner may retain sufficient funds to secure completion of the project or corrections on any work. The amount retained shall not exceed two and one-half (2.5) times the estimated value of the work to be completed or corrected.
 - d. If retainage is reduced and the Contractor does not maintain satisfactory progress or quality of the Work, or for other specific cause, retainage of up to five percent (5%) of the amount of any subsequent periodic payment may be withheld as determined by the Engineer or Owner.

Retainage for stored materials shall be included in retainage withholding described above, except that the value of materials stored on site shall not exceed twenty percent (20%) of

the Contractor's gross project invoices for the purpose of determining whether the project is fifty percent (50%) complete.

The Contractor is hereby advised that it should not assume that any retainage reduction herein described will be automatic, but that instead, a reduction will be made at the sole discretion of the Owner, consistent with North Carolina law. Any reduction in the amount of retainage on payments shall be with the written consent of the Contractor's surety. The Contractor is responsible for obtaining such consent and submitting the same with its payment request.

Interest on payments required by N.C.G.S. 143-134.1 shall be zero percent (0%), unless otherwise required by law. [* Specifier may require a different percentage to suit individual contract requirements after consultation with the Engineering Director of the Town of Clayton]

5. Beginning with the second Application for Payment, each Application shall include evidence that payment received on the basis of materials and equipment not incorporated and suitably stored, has in fact been paid to the respective Supplier(s) within sixty days of payment by Owner. Failure to provide such evidence of payment may result in the withdrawal of previous approval(s) and removal of the cost of related materials and equipment from the next submitted Application for Payment.

6. Each Application for Payment shall include the current list of Subcontractors and Suppliers providing labor or materials to the Site. Failure to provide an accurate list, or the existence of Subcontractors or materials at the Site that have not been approved by the Owner and the Engineer, may result in the withdrawal of previous approval(s) and/or removal of the cost of labor and/or materials provided by unapproved Subcontractors and/or Suppliers from the current and future Applications for Payment.

Each Application for Payment shall include an updated Progress Schedule, Town of Clayton Sales Use Tax form, including supporting documentations of invoices numbers indexed on the form, , MWBE reporting form, and any other supporting documentation deemed necessary by the Contract Documents, Engineer or Owner.

C. Review of Applications

1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of

the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:

- a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
 - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work and,-
 - d. any fines owed by Contractor (to third parties or the Owner), setoffs, amounts due to owner due to damage caused by contractor to Owner property or facilities, or other reductions in the amount due to Contractor have been subtracted from the current or previous Applications for Payment.
3. Except as, but only to the extent, specified in any separate agreement between the Owner and the Engineer, ~~b~~By recommending any such payment Engineer will not thereby be deemed to have represented that:
- a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Except as, but only to the extent, specified in any separate agreement between the Owner and the Engineer, ~~n~~Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
- a. to supervise, direct, or control the Work;
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto;
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work;
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid by Owner; or

- e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
- 5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
- 6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
 - a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.
 - f. Engineer has knowledge of any setoff, fine, or other reduction in the amount due to Contractor in connection with the Application for Payment and such amount has not been properly accounted for the Application for Payment.
 - g. the Application for Payment is in any way incomplete; or
 - h. Unapproved Subcontractors or Suppliers are performing Work at or supplying materials to the Site.
 - i. any outstanding supporting documents required under the contact documents.

D. *Payment Becomes Due*

- 1. ~~Thirty~~^{Ten} days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.
- 2. Should Contractor neglect to pay any undisputed claims made in writing to Owner within thirty days after completion of the Work or any portion thereof, and continuing unsatisfied for a period of ninety days, Owner may pay such claim and deduct the amount thereof from the balance due Contractor. Owner may also, with the written consent of contractor, use any monies retained, due, or to become due under this Contract for the purpose of paying for both labor and materials for such Work, even if claims have not been filed, if there is reasonable evidence that such a claim will be filed.
- 3. Payment under the Payment Bond and the withholding of retainage by the Owner for claims shall not be mutually exclusive protections for Owner. The owner may exercise both.

4. Any and all liens for work and materials may be paid off by Owner within a reasonable time after filing for record of a notice of such liens in accordance with State and local laws, except where the claim on which the lien is filed is being actively litigated by Contractor; in such case Owner may pay the amount of any final judgment or decree or any such claim within a reasonable time after such final judgment or decree shall be rendered.
5. All monies paid by Owner in settlement of liens as aforesaid, with all costs and expenses incurred by Owner in connection therewith, shall be charged to Contractor, shall bear interest at the rate of three percentage points above the rediscount rate then charged by the Federal Reserve Bank, and shall be deducted from the next payment(s) due Contractor under the terms of this Contract or shall be reimbursed by Contractor immediately upon receipt by the Contractor of an invoice therefor by the Owner if insufficient payments are outstanding to the Contractor to cover such costs and expenses.

E. *Reductions in Payment by Owner*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. Claims have been made against Owner based on Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages resulting from Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. The Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. The Contract Price has been reduced by Change Orders;
 - i. An event has occurred that would constitute a default by Contractor and therefore justify a termination for cause;
 - j. Liquidated or other damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;

- k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens; or
 - l. Other items entitle Owner to a set-off against the amount recommended.
 - m. Insufficient funds have been deducted from the Application for Payment to cover all fines owed by Contractor (to third parties or the Owner) and other setoffs and reductions in the amount due to the Contractor in connection with the Application for Payment.
- 2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed will be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.
 - 3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld will be treated as an amount due as determined by Paragraph 15.01.D.1 and subject to interest as provided in the Agreement.

15.02 Contractor's Warranty of Title

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than 7 days after the time of payment by Owner. Upon payment by Owner after submission by Contractor of an Application for Payment, all Work covered thereby shall be deemed to belong to the Owner without need for further documentation evidencing such conveyance of title.
- B. No materials or supplies for the Work shall be purchased by Contractor or any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. Contractor warrants that Contractor has good title to all materials and supplies used by Contractor in the Work, free from all liens, claims or encumbrances.
- C. Contractor shall indemnify and save Owner harmless from all claims growing out of the lawful demands of Subcontractors, Suppliers, laborers, workmen, mechanics, materialmen, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, including commissary, incurred in the furtherance of the performance of this Contract. Contractor shall at Owner's request, furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged, or waived. If contractor fails to do so, then Owner may, after having provided ten (10) days' written notice on Contractor,

withhold from the Contractor's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims. The owner may hold such withheld money until satisfactory evidence is furnished that all liabilities have been fully discharged or use the money to pay the unpaid obligations. Once the obligations have been satisfied, payment to Contractor shall be resumed in accordance with the terms of this Contract. In no event shall the provisions of this paragraph be construed to impose any obligations upon Owner to either Contractor or Contractor's Surety. In paying any unpaid bills of the Contractor, Owner shall be deemed the agent of Contractor, and any payment so made by Owner shall be deducted from the Contract Price due to Contractor. Owner shall not be liable to Contractor for any such payment made in good faith.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer or Owner does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer and Owner considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which will fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have 7 days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work,

property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list unless the Owner has stopped or suspended Work or terminated the Contract pursuant to the terms hereof.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time, Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through 15.03.E for that part of the Work.
 - 2. At any time, Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 - 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.04 regarding builder's risk or other property insurance.
 - 5. Payment in full for portions of the Project that are completed and used by Owner shall not be made until the entire Project has been completed. Partial payments and retainage shall continue to be handled pursuant to N.C.G.S. 143-134.1

15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

15.06 *Final Payment*

A. *Application for Payment*

- 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.12), and other documents, Contractor may make application for final payment.
 - 2. The final Application for Payment must be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all duly pending Change Proposals and Claims; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
 - 3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.
- B. *Engineer's Review of Final Application and Recommendation of Payment:* If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within 10

- days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the final Application for Payment to Owner for payment. Such recommendation will account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.
- C. *Notice of Acceptability*: In support of its recommendation of payment of the final Application for Payment, Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to stated limitations in the notice and to the provisions of Paragraph 15.07.
 - D. *Completion of Work*: The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment and issuance of notice of the acceptability of the Work.
 - E. *Final Payment Becomes Due*: Upon receipt from Engineer of the final Application for Payment and accompanying documentation, Owner shall set off against the amount recommended by Engineer for final payment any further sum to which Owner is entitled, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions of this Contract with respect to progress payments. Owner shall pay the resulting balance due to Contractor within 30 days of Owner's receipt of the final Application for Payment from Engineer.

15.07 *Waiver of Claims*

- A. By making final payment, Owner waives its claim or right to liquidated damages or other damages for late completion by Contractor, except as set forth in an outstanding Claim, appeal under the provisions of Article 17, set-off, or express reservation of rights by Owner. Owner reserves all other claims or rights after final payment.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted as a Claim, or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the Supplementary Conditions or the terms of any applicable special guarantee required by the Contract Documents), Owner gives Contractor written notice that any Work has been found to be defective, or that Contractor's repair of any damages to the Site or adjacent areas has been found to be defective, then after receipt of such notice of defect Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such adjacent areas;
 - 2. correct such defective Work;

3. remove the defective Work from the Project and replace it with Work that is not defective, if the defective Work has been rejected by Owner, and
 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting from the corrective measures.
- B. Owner shall give any such notice of defect within 60 days of the discovery that such Work or repairs is defective. If such notice is given within such 60 days but after the end of the correction period, the notice will be deemed a notice of defective Work under Paragraph 7.17.B.
- C. If, after receipt of a notice of defect within 60 days and within the correction period, Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others). Contractor's failure to pay such costs, losses, and damages within 10 days of invoice from Owner will be deemed the start of an event giving rise to a Claim under Paragraph 12.01.B, such that any related Claim must be brought within 30 days of the failure to pay.
- D. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- E. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed, or if such correction or removal and replacement took longer than one year, then for such period of time as the correction or removal and replacement took. All warranties for the Work so affected shall be extended for the same amount of time.-
- F. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an

extension of the Contract Times directly attributable to any such suspension. Any Change Proposal seeking such adjustments must be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 Owner May Terminate the Contract or Suspend the Work for Cause

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination of the contract and/or suspension of the Work for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment, or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- 5. Contractor's abandonment of the Work, or sublet or assignment of its rights and/or responsibilities under this Contract, or any part thereof, without the previous written consent of Owner, or the Contractor's assignment of any claim under the Contract without the previous written consent of the Owner or otherwise than as herein specifically permitted; or
- 6. Delays within the control of the Contractor, pursuant to Paragraph 12.04.A, have caused or will shortly cause the Work to interfere with the intended use of the Site, or a portion thereof, for other purposes, which interference would not have occurred if Contract Times had been met.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ~~710~~ days' written notice that Owner is considering a declaration that Contractor is in default and termination of the Contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) written notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within 7 days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.

- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed and may pay more than the prevailing rate if necessary to have the Work completed in accordance, or as close thereto as feasible, with the original Progress Schedule and Contract Times-
- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond will govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D as applicable by law. If the termination procedures of the bond do not conform to the provisions of Paragraphs 16.02.B and 16.02.E, then Contractor shall be required to replace the bond with one that does comply, unless Owner specifically agrees otherwise in writing-
- H. If the Owner suspends Work due to repeated unsafe Work conducted by the Contractor, confirmed by subsequent inspection by OSHA NC, then the Contractor shall not be allowed any adjustment in the Contract Price or extension of Contract Times for delays caused by such suspension, and Contractor shall bear all responsibilities under this Contract for such delays.

16.03 *Owner May Terminate for Convenience*

- A. Upon 7 days' written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such completed and acceptable Work;
 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 3. other reasonable expenses directly attributable to termination, ~~including costs incurred to prepare a termination for convenience cost proposal.~~

B. Contractor shall not be paid for any loss of anticipated profits or revenue, post-termination overhead costs, or other economic loss arising out of or resulting from such termination.

C. Upon receiving the Owner's notification of termination of the Contract, the Contractor shall immediately and expeditiously terminate any ongoing Work and inform its Subcontractors and Suppliers of termination, all so as to minimize the costs, expenses and other damage sustained prior to the effective date of the termination

16.04 Contractor May Stop Work or Terminate

A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due and not disputed by either party, then Contractor may, upon 7 days' written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.

B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due and not disputed by either party, Contractor may, 7 days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17—FINAL RESOLUTION OF DISPUTES

17.01 Methods and Procedures

A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this article:

1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full, pursuant to Article 12; and
2. Disputes between Owner and Contractor concerning the Work, or obligations under the Contract Documents, that arise after final payment has been made.

B. *Final Resolution of Disputes:* For any dispute subject to resolution under this article, Owner or Contractor may:

1. elect in writing to invoke the dispute resolution process provided for in these General Conditions or in any the Supplementary Conditions;

2. agree with the other party to submit the dispute to another dispute resolution process; or
3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a Johnston County Superior Court~~court of competent jurisdiction~~.

ARTICLE 18—MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract requires the giving of written notice to Owner, Engineer, or Contractor, it will be deemed to have been validly given only if delivered:
 1. delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended;~~in person, by a commercial courier service or otherwise, to the recipient's place of business;~~
 2. by registered or certified mail, postage prepaid, to the recipient's place of business; or
 3. by e-mail to the recipient, with the words "Formal Notice" or similar in the e-mail's subject line.

18.02 *Computation of Times*

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

18.03 *Cumulative Remedies*

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination of the Contract or of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of North Carolina~~the state in which the Project is located.~~

18.08 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party to this Contract of any rights under or interests in the Contract will be binding on the other party without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract.

18.09 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

18.10 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

18.11 *Amendments*

A. This Contract may only be amended in writing by an instrument executed by the party or parties granting additional rights against it to others or upon whom additional obligations are being imposed.

18.12 *Dissemination of Information*

It is expressly agreed and understood that the Contractor shall not at any time publicly disseminate any information concerning the Project without prior approval from the Owner. Such approval will not be unreasonably withheld but may be given with certain stipulations, such as Owner participation in the creation of the public product or Owner review and the option to refuse ultimate release of the final product should it fail to meet the Owner's standards and goals. Public dissemination includes but is not limited to electronic, video, audio, photographic or hard copy materials serving as, in whole or part, professional papers or presentations, news releases, articles, or other media products, and/or Contractor's business collateral pieces.

18.13 Forms

The form of all submittals, notices, change orders, and other documents permitted or required to be used or transmitted under the Contract Documents shall be determined by the Engineer. Standard forms that Engineer expects to use are contained in the pages of the Supplementary Conditions.

The Notice Address for the Owner shall be:

Town of Clayton

Attention Engineering Department

111 East Second Street

Clayton, NC 27520

SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

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SUPPLEMENTARY CONDITIONS OF THE CONSTRUCTION CONTRACT

These Supplementary Conditions amend or supplement EJCDC® C-700, Standard General Conditions of the Construction Contract (2018). The General Conditions remain in full force and effect except as amended.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added—for example, “Paragraph SC-4.05.”

ARTICLE 1—DEFINITIONS AND TERMINOLOGY

No suggested Supplementary Conditions in this Article.

SC-1.01 A – Add the following Definition and Terminology

1. *Mobilization* — The preparatory work and operations necessary to move personnel, materials, and equipment to the project site. This includes all activities required to set up for the commencement of work, such as transportation, establishment of temporary facilities, securing permits, and any other actions needed to ensure the project is ready to begin
2. *Change Order* — A written document, signed by both the Contractor and the Owner, that authorizes changes to the scope of work, including additions, deletions, or revisions. It may also adjust the Contract Price, Contract Time, or other terms of the Contract. A Change Order is issued after the Effective Date of the Contract and can address non-engineering or non-technical aspects in addition to construction-related changes.
3. *Specifications* — The component of the Contract comprising the written technical descriptions and requirements for materials, equipment, systems, standards, and workmanship related to the Work. Specifications also outline relevant administrative details, procedural requirements, and other conditions applicable to the project. This includes all sections listed under the Technical Specifications within the Project Manual.
4. *Substantial Completion* — The stage in the progress of the Work (or a specified portion thereof) when, in the opinion of the Engineer and with the Owner’s approval, the Work is sufficiently complete in accordance with the Contract Documents so that it can be utilized for its intended purpose. The terms “substantially complete” and “substantially completed” refer to the achievement of Substantial Completion for all or part of the Work.
5. *Work* — The complete construction project or its separately identifiable components, as required by the Contract Documents. Work includes all labor, materials, equipment, services, and documentation necessary or appropriate to execute the construction, including furnishing,

installing, and integrating all required elements. It also encompasses related services such as testing, start-up, commissioning, and any other tasks specified or implied in the Contract Documents to achieve final completion.

6. *Architect* - The individual or entity named as such in the Agreement. For purposes of these Contract Documents, references to "Engineer" shall be interpreted to include the Architect when describing duties, responsibilities, or actions specifically related to architectural design, administration, and supervision of the Project.

ARTICLE 2—PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

2.02 *Copies of Documents*

SC-2.02 Amend the first sentence of Paragraph 2.02.A. to read as follows:

SC-2.02 Delete Paragraph 2.02.A in its entirety and insert the following new paragraph in its place:

- A. Owner shall furnish Contractor **ONE (1)** printed copies of conformed Contract Documents incorporating and integrating all Addenda and any amendments negotiated prior to the Effective Date of the Contract (including one fully signed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies of the conformed Contract Documents will be furnished upon request at the cost of reproduction.

SC-2.05 A

2.06 *Electronic Transmittals*

SC-2.06 Delete Paragraphs 2.06.B and 2.06.C in their entirety and insert the following in their place:

- B. *Electronic Documents Protocol*: The parties shall conform to the following provisions in Paragraphs 2.06.B and 2.06.C, together referred to as the Electronic Documents Protocol ("EDP" or "Protocol") for exchange of electronic transmittals.

1. *Basic Requirements*

- a. To the fullest extent practical, the parties agree to and will transmit and accept Electronic Documents in an electronic or digital format using the procedures described in this Protocol. Use of the Electronic Documents and any information contained therein is subject to the requirements of this Protocol and other provisions of the Contract.
- b. The contents of the information in any Electronic Document will be the responsibility of the transmitting party.
- c. Electronic Documents as exchanged by this Protocol may be used in the same manner as the printed versions of the same documents that are exchanged using non-electronic format and methods, subject to the same governing requirements, limitations, and restrictions, set forth in the Contract Documents.
- d. Except as otherwise explicitly stated herein, the terms of this Protocol will be incorporated into any other agreement or subcontract between a party and any third party for any portion of the Work on the Project, or any Project-related services, where that third party is, either directly or indirectly, required to exchange Electronic Documents with a party or with Engineer. Nothing herein will modify the requirements of the Contract regarding communications between and among the parties and their subcontractors and consultants.

- e. When transmitting Electronic Documents, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the receiving party's use of software application packages, operating systems, or computer hardware differing from those established in this Protocol.
- f. Nothing herein negates any obligation 1) in the Contract to create, provide, or maintain an original printed record version of Drawings and Specifications, signed and sealed according to applicable Laws and Regulations; 2) to comply with any applicable Law or Regulation governing the signing and sealing of design documents or the signing and electronic transmission of any other documents; or 3) to comply with the notice requirements of Paragraph 18.01 of the General Conditions.

2. *System Infrastructure for Electronic Document Exchange*

- a. Each party will provide hardware, operating system(s) software, internet, e-mail, and large file transfer functions ("System Infrastructure") at its own cost and sufficient for complying with the EDP requirements. With the exception of minimum standards set forth in this EDP, and any explicit system requirements specified by attachment to this EDP, it is the obligation of each party to determine, for itself, its own System Infrastructure.
 - 1) The maximum size of an email attachment for exchange of Electronic Documents under this EDP is **15 MB**. Attachments larger than that may be exchanged using large file transfer functions or physical media.
 - 2) Each Party assumes full and complete responsibility for any and all of its own costs, delays, deficiencies, and errors associated with converting, translating, updating, verifying, licensing, or otherwise enabling its System Infrastructure, including operating systems and software, for use with respect to this EDP.
- b. Each party is responsible for its own system operations, security, back-up, archiving, audits, printing resources, and other Information Technology ("IT") for maintaining operations of its System Infrastructure during the Project, including coordination with the party's individual(s) or entity responsible for managing its System Infrastructure and capable of addressing routine communications and other IT issues affecting the exchange of Electronic Documents.
- c. Each party will operate and maintain industry-standard, industry-accepted, ISO-standard, commercial-grade security software and systems that are intended to protect the other party from: software viruses and other malicious software like worms, trojans, adware; data breaches; loss of confidentiality; and other threats in the transmission to or storage of information from the other parties, including transmission of Electronic Documents by physical media such as CD/DVD/flash drive/hard drive. To the extent that a party maintains and operates such security software and systems, it shall not be liable to the other party for any breach of system security.
- d. In the case of disputes, conflicts, or modifications to the EDP required to address issues affecting System Infrastructure, the parties shall cooperatively resolve the issues; but, failing resolution, the Owner is authorized to make and require reasonable and necessary changes to the EDP to effectuate its original intent. If the

changes cause additional cost or time to Contractor, not reasonably anticipated under the original EDP, Contractor may seek an adjustment in price or time under the appropriate process in the Contract.

- e. Each party is responsible for its own back-up and archive of documents sent and received during the term of the contract under this EDP, unless this EDP establishes a Project document archive, either as part of a mandatory Project website or other communications protocol, upon which the parties may rely for document archiving during the specified term of operation of such Project document archive. Further, each party remains solely responsible for its own post-Project back-up and archive of Project documents after the term of the Contract, or after termination of the Project document archive, if one is established, for as long as required by the Contract and as each party deems necessary for its own purposes.
- f. If a receiving party receives an obviously corrupted, damaged, or unreadable Electronic Document, the receiving party will advise the sending party of the incomplete transmission.
- g. The parties will bring any non-conforming Electronic Documents into compliance with the EDP. The parties will attempt to complete a successful transmission of the Electronic Document or use an alternative delivery method to complete the communication.

C. *Software Requirements for Electronic Document Exchange; Limitations*

- 1. Each party will acquire the software and software licenses necessary to create and transmit Electronic Documents and to read and to use any Electronic Documents received from the other party (and if relevant from third parties), using the software formats required in this section of the EDP.
 - a. Prior to using any updated version of the software required in this section for sending Electronic Documents to the other party, the originating party will first notify and receive concurrence from the other party for use of the updated version or adjust its transmission to comply with this EDP.
- 2. The parties agree not to intentionally edit, reverse engineer, decrypt, remove security or encryption features, or convert to another format for modification purposes any Electronic Document or information contained therein that was transmitted in a software data format, including Portable Document Format (PDF), intended by sender not to be modified, unless the receiving party obtains the permission of the sending party or is citing or quoting excerpts of the Electronic Document for Project purposes.
- 3. Software and data formats for exchange of Electronic Documents will conform to the requirements set forth in Exhibit A to this EDP, including software versions, if listed.

SC-2.06 Supplement Paragraph 2.06 of the General Conditions by adding the following paragraph:

D. *Requests by Contractor for Electronic Documents in Other Formats*

- 1. Release of any Electronic Document versions of the Project documents in formats other than those identified in the Electronic Documents Protocol (if any) or elsewhere in the Contract will be at the sole discretion of the Owner.

2. To extent determined by Owner, in its sole discretion, to be prudent and necessary, release of Electronic Documents versions of Project documents and other Project information requested by Contractor ("Request") in formats other than those identified in the Electronic Documents Protocol (if any) or elsewhere in the Contract will be subject to the provisions of the Owner's response to the Request, and to the following conditions to which Contractor agrees:
 - a. The content included in the Electronic Documents created by Engineer and covered by the Request was prepared by Engineer as an internal working document for Engineer's purposes solely, and is being provided to Contractor on an "AS IS" basis without any warranties of any kind, including, but not limited to any implied warranties of fitness for any purpose. As such, Contractor is advised and acknowledges that the content may not be suitable for Contractor's application, or may require substantial modification and independent verification by Contractor. The content may include limited resolution of models, not-to-scale schematic representations and symbols, use of notes to convey design concepts in lieu of accurate graphics, approximations, graphical simplifications, undocumented intermediate revisions, and other devices that may affect subsequent reuse.
 - b. Electronic Documents containing text, graphics, metadata, or other types of data that are provided by Engineer to Contractor under the request are only for convenience of Contractor. Any conclusion or information obtained or derived from such data will be at the Contractor's sole risk and the Contractor waives any claims against Engineer or Owner arising from use of data in Electronic Documents covered by the Request.
 - c. Contractor shall indemnify and hold harmless Owner and Engineer and their subconsultants from all claims, damages, losses, and expenses, including attorneys' fees and defense costs arising out of or resulting from Contractor's use, adaptation, or distribution of any Electronic Documents provided under the Request.
 - d. Contractor agrees not to sell, copy, transfer, forward, give away or otherwise distribute this information (in source or modified file format) to any third party without the direct written authorization of Engineer, unless such distribution is specifically identified in the Request and is limited to Contractor's subcontractors. Contractor warrants that subsequent use by Contractor's subcontractors complies with all terms of the Contract Documents and Owner's response to Request.
3. In the event that Owner elects to provide or directs the Engineer to provide to Contractor any Contractor-requested Electronic Document versions of Project information that is not explicitly identified in the Contract Documents as being available to Contractor, the Owner shall be reimbursed by Contractor on an hourly basis (at \$[number] per hour) for any engineering costs necessary to create or otherwise prepare the data in a manner deemed appropriate by Engineer.

ARTICLE 3—CONTRACT DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 Add the following new paragraph to 3.01C

Where Division 01 General Requirements may conflict with the town of Clayton Modified General Conditions or these Supplementary Conditions, the provisions of the General Conditions and Supplementary Conditions shall take precedence and govern.

ARTICLE 4—COMMENCEMENT AND PROGRESS OF THE WORK

SC - 4.04 Add the following new paragraphs to 4.04

Progress Schedule

5. The *Progress Schedule* shall be evaluated by the Contractor not less than monthly. An updated and corrected Progress Schedule shall be submitted to the Engineer in duplicate and shall show any rescheduling necessary to reflect the true job conditions. This updated Progress Schedule shall be submitted monthly to the Engineer with the Contractor's Application for Payment. When the shortening of various time intervals is necessary to correct for behind-schedule conditions, the Contractor shall indicate the steps necessary to accomplish the Work in the shortest schedule possible. Information regarding the new time intervals and the reasons for them shall be submitted to the Engineer in writing with the revised schedule. The Engineer may withhold progress payments until such time as the Progress Schedule or revised Progress Schedule, if applicable, is received.

6. Monthly Progress Meetings

Each prime contractor is required to attend monthly progress meetings called or scheduled by the Engineer or Owner at the Project Site or other agreeable location. The Contractor shall attend the meeting. The Owner and Engineer will attend this meeting. Each prime contractor shall be represented at these meetings by both its home office and project personnel. These representatives shall have the authority to act on behalf of the Contractor. The meetings shall be open to the Subcontractors, materials suppliers, utility company representatives and any others whose presence and participation would contribute toward maintaining required job progress. It shall be the principal purpose of these meetings to effect coordination, cooperation, and assistance in every practical way toward the end of maintaining progress of the Project on schedule and to complete the Project within the specified Contract Times. Each prime contractor shall be prepared to assess the progress of the Work as required in its particular contract and to recommend remedial measures for correction of the progress as may be appropriate. The Engineer, or the representative thereof, will be the coordinator of the meeting and will preside as chair. The Engineer will record notes of the proceedings and decisions and will distribute copies of notes to attendees. The agenda will include, as a minimum: review and approve notes of previous meeting; review progress of work since last meeting; review proposed 30-60 day construction schedule; field observations, problems and conflicts; problems that impede planned progress; corrective measures and/or procedures to regain projected schedule; revise construction schedule as indicated and plan progress during the next work period; submittal status; pending changes; maintenance of quality and work standards; status of community relations and complaint resolution; complete other current business; schedule next progress meeting.

4.05 *Delays in Contractor's Progress*

SC-4.05 Amend Paragraph 4.05.C by adding the following subparagraphs:

5. *Weather-Related Delays*

- a. If “abnormal weather conditions” as set forth in Paragraph 4.05.C.2 of the General Conditions are the basis for a request for an equitable adjustment in the Contract Times, such request must be documented by data substantiating each of the following: 1) that weather conditions were abnormal for the period of time in which the delay occurred, 2) that such weather conditions could not have been reasonably anticipated, and 3) that such weather conditions had an adverse effect on the Work as scheduled.
- b. The existence of abnormal weather conditions will be determined on a month-by-month basis in accordance with the following:
 - 1) Every workday on which one or more of the following conditions exist will be considered a “bad weather day”:
 - i) Total precipitation (as rain equivalent) occurring between 7:00 p.m. on the preceding day (regardless of whether such preceding day is a workday) through 7:00 p.m. on the workday in question equals or exceeds **0.20** of precipitation (as rain equivalent, based on the snow/rain conversion indicated in the table entitled Foreseeable Bad Weather Days; such table is hereby incorporated in this SC-4.05.C by reference.
 - i. Standing snow in excess of one (1.00) inch.
 - ii) Ambient outdoor air temperature at 11:00 a.m. is equal to or less than the following low temperature threshold: **Zero (0)** degrees Fahrenheit; or, at 3:00 p.m. the ambient outdoor temperature is equal to or greater than the following high temperature threshold: **One Hundred (100)** degrees Fahrenheit.
 - 2) Determination of actual bad weather days during performance of the Work will be based on the weather records measured and recorded by weather monitoring station at <https://www.weather.gov/>, Clayton, NC Johnston County.
 - 3) Contractor shall anticipate the number of foreseeable bad weather days per month indicated in table SC-4.05-C-1—Foreseeable Bad Weather Days.
 - 4) In each month, every bad weather day exceeding the number of foreseeable bad weather days established in table in SC-4.05-C-1 Foreseeable Bad Weather Days will be considered as “abnormal weather conditions.” The existence of abnormal weather conditions will not relieve Contractor of the obligation to demonstrate and document that delays caused by abnormal weather are specific to the planned work activities or that such activities thus delayed were on Contractor’s then-current Progress Schedule’s critical path for the Project.

Table SC-4.05.C-1—Foreseeable Bad Weather Days

Month	Number of Foreseeable Bad Weather Days in Month Based on Precipitation as Rain Equivalent (inches) ⁽¹⁾	Ambient Outdoor Air Temperature (degrees F)	
		Number of Foreseeable Bad Weather Days in Month Based on Low Temperature (at 11:00 a.m.)	Number of Foreseeable Bad Weather Days in Month Based on High Temperature (at 3:00 p.m.)
January	8	1	0
February	6	0	0
March	6	0	0
April	7	0	0
May	5	0	0
June	8	0	0
July	7	0	0
August	5	0	1
September	6	0	0
October	3	0	0
November	5	0	0
December	7	1	0

Notes:

- Two inches of sleet equals one inch of rain. Five inches of wet, heavy snow equals one inch of rain. Fifteen inches of "dry" powder snow equals one inch of rain.

6. Unexpected Pandemic

ARTICLE 5—SITE, SUBSURFACE AND PHYSICAL CONDITIONS, HAZARDOUS ENVIRONMENTAL CONDITIONS

5.03 *Subsurface and Physical Conditions*

SC-5.03 Add the following within paragraph 5.03C

- In the preparation of Drawings and Specifications, the Engineer has relied upon reports of surface and subsurface investigation as may be indicated under SC-5.03 E and F. Such reports and drawings are not contract documents.

SC-5.03 Add the following new paragraphs immediately after Paragraph 5.03.D:

- The following table lists the reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data, and specifically identifies the Technical Data in the report upon which Contractor may rely:

Report Title	Date of Report	Technical Data
N/A		[Identify Technical Data]

- F. The following table lists the drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data, and specifically identifies the Technical Data upon which Contractor may rely: **[If there are no such drawings, so indicate in the table.]**

Drawings Title	Date of Drawings	Technical Data
Library Original Drawings	1979	
Library Addition	1994	
Library Conference Room Addition	2002	
Library SW Conference Room Addition	2006	

5.06 Hazardous Environmental Conditions

SC-5.06 Add the following new paragraphs immediately after Paragraph 5.06.A.3:

4. The following table lists the reports known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and the Technical Data (if any) upon which Contractor may rely: **[If there are no such reports, so indicate in the table]**

Report Title	Date of Report	Technical Data
Asbestos Report from Matrix	11/25/2024	

5. The following table lists the drawings known to Owner relating to Hazardous Environmental Conditions at or adjacent to the Site, and Technical Data (if any) contained in such Drawings upon which Contractor may rely: **[If there are no such drawings, so indicate in the table]**

Drawings Title	Date of Drawings	Technical Data
N/A		

ARTICLE 6— BONDS AND INSURANCE

6.01 Performance, Payment, and Other Bonds

SC-6.01 Add the following paragraphs immediately after Paragraph 6.01.A:

Performance, Payment, and Other Bonds are due per GC 2.01A. within fifteen (15) days of receiving delivery of the Notice of Award and/or Agreement

1. *Required Performance Bond Form:* The performance bond that Contractor furnishes will be in the form of EJCDC® C-610, Performance Bond (2018 edition).
2. *Required Payment Bond Form:* The payment bond that Contractor furnishes will be in the form of EJCDC® C-615, Payment Bond (2018 edition).

SC-6.01 Add the following paragraphs immediately after Paragraph 6.01.B:

1. The correction period specified as one year after the date of Substantial Completion in Paragraph 15.08.A of the General Conditions is hereby revised to be **1** year after Substantial Completion.
2. ~~After Substantial Completion, Contractor shall furnish a warranty bond issued in the form of EJCDC® C 612, Warranty Bond (2018). The warranty bond must be in a bond amount of **10** percent of the final Contract Price. The warranty bond period will extend to a date **2** years after Substantial Completion of the Work. Contractor shall deliver the fully executed warranty bond to Owner prior to or with the final application for payment, and in any event no later than 11 months after Substantial Completion.~~
3. ~~The warranty bond must be issued by the same surety that issues the performance bond required under Paragraph 6.01.A of the General Conditions.~~ Deleted Item

6.02 Insurance—General Provisions

SC-6.02 Add the following paragraph immediately after Paragraph 6.02.B:

1. Contractor may obtain worker's compensation insurance from an insurance company that has not been rated by A.M. Best, provided that such company (a) is domiciled in the state in which the Project is located, (b) is certified or authorized as a worker's compensation insurance provider by the appropriate state agency, and (c) has been accepted to provide worker's compensation insurance for similar projects by the state within the last 12 months.

SC-6.02 Add the following paragraph immediately after Paragraph 6.02.H.2 of the General Conditions:

3. For the following Subcontractors, Suppliers, or categories of Subcontractor or Supplier, Contractor shall require the following specified insurance, with policy limits as stated:
[Identify Subcontractors, Suppliers, or categories of same, and insert specific insurance requirements and policy limits]

6.03 Contractor's Insurance

SC-6.03 Supplement Paragraph 6.03 with the following provisions after Paragraph 6.03.C:

- D. *Other Additional Insureds:* As a supplement to the provisions of Paragraph 6.03.C of the General Conditions, the commercial general liability, automobile liability, umbrella or excess, pollution liability, and unmanned aerial vehicle liability policies must include as additional insureds (in addition to Owner and Engineer) the following: **[Here list by legal name (not category, role, or classification) other persons or entities to be included as additional insureds. See GC-6.03.C.]**
- E. *Workers' Compensation and Employer's Liability:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance, including, as applicable, United States Longshoreman and Harbor Workers' Compensation Act, Jones Act, stop-gap employer's liability coverage for monopolistic states, and foreign voluntary workers' compensation (from available sources, notwithstanding the jurisdictional requirement of Paragraph 6.02.B of the General Conditions).

Workers' Compensation and Related Policies	Policy limits of not less than:
Workers' Compensation	
State	Statutory
Applicable Federal (e.g., Longshoreman's)	Statutory
Foreign voluntary workers' compensation (employer's responsibility coverage), if applicable	Statutory
Jones Act (if applicable)	
Bodily injury by accident—each accident	\$
Bodily injury by disease—aggregate	\$
Employer's Liability	
Each accident	\$
Each employee	\$
Policy limit	\$
Stop-gap Liability Coverage	
For work performed in monopolistic states, stop-gap liability coverage must be endorsed to either the worker's compensation or commercial general liability policy with a minimum limit of:	\$

- F. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against claims for:
1. damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees,
 2. damages insured by reasonably available personal injury liability coverage, and
 3. damages because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- G. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy must be written on a 1996 (or later) Insurance Services Organization, Inc. (ISO) commercial general liability form (occurrence form) and include the following coverages and endorsements:
1. Products and completed operations coverage.
 - a. Such insurance must be maintained for three years after final payment.
 - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 2. Blanket contractual liability coverage, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 3. Severability of interests and no insured-versus-insured or cross-liability exclusions.
 4. Underground, explosion, and collapse coverage.
 5. Personal injury coverage.

6. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together). If Contractor demonstrates to Owner that the specified ISO endorsements are not commercially available, then Contractor may satisfy this requirement by providing equivalent endorsements.
 7. For design professional additional insureds, ISO Endorsement CG 20 32 07 04 “Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured” or its equivalent.
- H. *Commercial General Liability—Excluded Content:* The commercial general liability insurance policy, including its coverages, endorsements, and incorporated provisions, must not include any of the following:
1. Any modification of the standard definition of “insured contract” (except to delete the railroad protective liability exclusion if Contractor is required to indemnify a railroad or others with respect to Work within 50 feet of railroad property).
 2. Any exclusion for water intrusion or water damage.
 3. Any provisions resulting in the erosion of insurance limits by defense costs other than those already incorporated in ISO form CG 00 01.
 4. Any exclusion of coverage relating to earth subsidence or movement.
 5. Any exclusion for the insured’s vicarious liability, strict liability, or statutory liability (other than worker’s compensation).
 6. Any limitation or exclusion based on the nature of Contractor’s work.
 7. Any professional liability exclusion broader in effect than the most recent edition of ISO form CG 22 79.
- I. *Commercial General Liability—Minimum Policy Limits*

Commercial General Liability	Policy limits of not less than:
General Aggregate	\$ 3,000,000
Products—Completed Operations Aggregate	\$ 3,000,000
Personal and Advertising Injury	\$ 1,000,000
Bodily Injury and Property Damage—Each Occurrence	\$ 1,000,000

- J. *Automobile Liability:* Contractor shall purchase and maintain automobile liability insurance for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy must be written on an occurrence basis.

Automobile Liability	Policy limits of not less than:
Bodily Injury	
Each Person	\$ 1,000,000
Each Accident	\$ 3,000,000

Automobile Liability	Policy limits of not less than:
Property Damage	
Each Accident	\$ 1,000,000
Combined Single Limit (Bodily Injury and Property Damage)	\$

- K. *Umbrella or Excess Liability:* Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the Paragraphs above. The coverage afforded must be at least as broad as that of each and every one of the underlying policies.

Excess or Umbrella Liability	Policy limits of not less than:
Each Occurrence	\$ 10,000,000
General Aggregate	\$ 10,000,000

- L. *Using Umbrella or Excess Liability Insurance to Meet CGL and Other Policy Limit Requirements:* Contractor may meet the policy limits specified for employer's liability, commercial general liability, and automobile liability through the primary policies alone, or through combinations of the primary insurance policy's policy limits and partial attribution of the policy limits of an umbrella or excess liability policy that is at least as broad in coverage as that of the underlying policy, as specified herein. If such umbrella or excess liability policy was required under this Contract, at a specified minimum policy limit, such umbrella or excess policy must retain a minimum limit of **\$10,000,00** after accounting for partial attribution of its limits to underlying policies, as allowed above.
- M. *Contractor's Pollution Liability Insurance:* Contractor shall purchase and maintain a policy covering third-party injury and property damage, including cleanup costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance must be maintained for no less than three years after final completion.

Contractor's Pollution Liability	Policy limits of not less than:
Each Occurrence/Claim	\$ 1,000,000
General Aggregate	\$ 1,000,000

Deleted Item

- N. *Contractor's Professional Liability Insurance:* If Contractor will provide or furnish professional services under this *Contract*, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance must cover negligent acts, errors, or omissions in the performance of professional design or related services by the insured or others for whom the insured is legally liable. The insurance must be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. The retroactive date on the policy must pre-date the commencement of furnishing services on the Project.

Contractor's Professional Liability	Policy limits of not less than:
Each Claim	\$
Annual Aggregate	\$

- O. *Railroad Protective Liability Insurance:* Prior to commencing any Work within 50 feet of railroad-owned and controlled property, Contractor shall (1) endorse its commercial general liability policy with ISO CG 24 17, removing the contractual liability exclusion for work within 50 feet of a railroad, (2) purchase and maintain railroad protective liability insurance meeting the following requirements, (3) furnish a copy of the endorsement to Owner, and (4) submit a copy of the railroad protective policy and other railroad-required documentation to the railroad, and notify Owner of such submittal.

[Insert additional specific requirements, commonly set by the railroad, here.]

Railroad Protective Liability Insurance	Policy limits of not less than:
Each Claim	\$
Aggregate	\$

- P. *Unmanned Aerial Vehicle Liability Insurance:* If Contractor uses unmanned aerial vehicles (UAV—commonly referred to as drones) at the Site or in support of any aspect of the Work, Contractor shall obtain UAV liability insurance in the amounts stated; name Owner, Engineer, and all individuals and entities identified in the Supplementary Conditions as additional insureds; and provide a certificate to Owner confirming Contractor's compliance with this requirement. Such insurance will provide coverage for property damage, bodily injury or death, and invasion of privacy.

Unmanned Aerial Vehicle Liability Insurance	Policy limits of not less than:
Each Claim	\$
General Aggregate	\$

- Q. *Other Required Insurance:* **[Here list additional types and amounts of insurance that Contractor is required to carry.]**

6.04 *Builder's Risk and Other Property Insurance*

SC-6.04

SC-6.04 Supplement Paragraph 6.04 of the General Conditions with the following provisions:

- F. *Builder's Risk Requirements:* The builder's risk insurance must:
1. be written on a builder's risk "all risk" policy form that at a minimum includes insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment stored and in transit, and must not exclude the coverage of the following risks: fire; windstorm; hail; flood; earthquake, volcanic activity, and other earth movement; lightning; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; collapse; explosion; debris removal; demolition

occasioned by enforcement of Laws and Regulations; and water damage (other than that caused by flood).

- a. Such policy will include an exception that results in coverage for ensuing losses from physical damage or loss with respect to any defective workmanship, methods, design, or materials exclusions.
 - b. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake, volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance will be provided through other insurance policies acceptable to Owner and Contractor.
2. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
 3. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of contractors, engineers, and architects).
 4. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier). ~~If this coverage is subject to a sublimit, such sublimit will be a minimum of \$[amount].~~ The coverage is not subject to a sublimit; it is covered under the Builders Risk Amount for the total cost of construction
 5. extend to cover damage or loss to insured property while in transit. ~~If this coverage is subject to a sublimit, such sublimit will be a minimum of \$[amount].~~ All sublimit amounts are included in the Builders Risk Amount for the total cost of coverage.
 6. allow for the waiver of the insurer's subrogation rights, as set forth in this Contract.
 7. allow for partial occupancy or use by Owner by endorsement, and without cancellation or lapse of coverage.
 8. include performance/hot testing and start-up, if applicable.
 9. be maintained in effect until the Work is complete, as set forth in Paragraph 15.06.D of the General Conditions, or until written confirmation of Owner's procurement of property insurance following Substantial Completion, whichever occurs first.
 10. include as named insureds the Owner, Contractor, Subcontractors (of every tier), and any other individuals or entities required by this Contract to be insured under such builder's risk policy. For purposes of Paragraphs 6.04, 6.05, and 6.06 of the General Conditions, and this and all other corresponding Supplementary Conditions, the parties required to be insured will be referred to collectively as "insureds." In addition to Owner, Contractor, and Subcontractors of every tier, include as insureds the following:

- a. The parties are identified in the Builders Risk Insurance Policy
- 11. include, in addition to the Contract Price amount, the value of the following equipment and materials to be installed by the Contractor but furnished by the Owner or third parties:
 - a. ~~Furniture: \$350,000~~ Deleted Item
- 12. If debris removal in connection with repair or replacement of insured property is subject to a coverage sublimit, ~~such sublimit will be a minimum of \$[amount]~~. The coverage is not subject to a sublimit; it is included in the Builders Risk Policy for the total cost of construction
- 13. In addition to the coverage sublimits stated above, the following coverages are also subject to sublimits, as follows:
 - a. **Coverage is not subject to sublimit.**

SC-6.04 Supplement Paragraph 6.04 of the General Conditions with the following provision:

- G. *Coverage for Completion Delays:* The builder's risk policy will include, for the benefit of Owner, loss of revenue and soft cost coverage for losses arising from delays in completion that result from covered physical losses or damage. Such coverage will include, without limitation, fixed expenses and debt service for a minimum of 12 months with a maximum deductible of 30 days, compensation for loss of net revenues, rental costs, and attorneys' fees and engineering or other consultants' fees, if not otherwise covered.

SC-6.04 Supplement Paragraph 6.04 of the General Conditions with the following provisions:

- H. *Builder's Risk and Other Property Insurance Deductibles:* The purchaser of any required builder's risk, installation floater, or other property insurance will be responsible for costs not covered because of the application of a policy deductible.
 - 1. The builder's risk policy (or if applicable the installation floater) will be subject to a deductible ~~amount of no more than \$[number] for direct physical loss in any one occurrence.~~ This is identified in the Builders Risk Policy

SC-6.04 Delete Paragraph 6.04.A of the General Conditions and substitute the following in its place:

A. *Installation Floater*

- 1. Contractor shall provide and maintain installation floater insurance on a broad form or "all risk" policy providing coverage for materials, supplies, machinery, fixtures, and equipment that will be incorporated into the Work ("Covered Property"). Coverage under the Contractor's installation floater will include loss from covered "all risk" causes (perils) to Covered Property:
 - a. of the Contractor, and Covered Property of others that is in Contractor's care, custody, and control;
 - b. while in transit to the Site, including while at temporary storage sites;
 - c. while at the Site awaiting and during installation, erection, and testing;
 - d. continuing at least until the installation or erection of the Covered Property is completed, and the Work into which it is incorporated is accepted by Owner.

2. The installation floater coverage cannot be contingent on an external cause or risk, or limited to property for which the Contractor is legally liable.
3. The installation floater coverage will be in an amount sufficient to protect Contractor's interest in the Covered Property. The Contractor will be solely responsible for any deductible carried under this coverage.
4. This policy will include a waiver of subrogation applicable to Owner, Contractor, Engineer, all Subcontractors, and the officers, directors, partners, employees, agents and other consultants and subcontractors of any of them.

ARTICLE 7— CONTRACTOR'S RESPONSIBILITIES

7.03 Labor; Working Hours

SC 7.03 A. Add the following new paragraph: *Contractor Compliance and Personnel Removal* — The Contractor shall comply with all applicable laws and regulations related to employment. If the Owner provides written notice that any individual working on the project is deemed incompetent, disorderly, or otherwise unsatisfactory, the Contractor shall promptly remove that person from the project. Such individual shall not be reassigned to the project without the prior written consent of the Owner. The removal of any personnel under this provision shall not warrant any adjustment to the Contract Price or Contract Times

SC-7.03 C Add the following at the end of 7.03C

Regular Working Hours may also take place on Saturday between the hours of 9:00 a.m. and 6:00 p.m. for work not requiring engineering and/or inspection. Saturday work that requires engineering and/or inspections shall be subject to the provisions of Paragraph SC 7.03D. Requests to work other than Regular Working Hours shall be submitted to Engineer not less than 48 hours prior to any proposed additional daily working hours (including second and third shifts), additional weekend work or scheduled extended work weeks. All requests to work other than Regular Working Hours must comply with all applicable regulations and ordinances. Engineer/Owner shall review requests, and Engineer/Owner shall either (1) deny the request or (2) provide Contractor with terms for additional engineering and/or inspection costs to be paid for by Contractor as a result of overtime work in excess of the Regular Working Hours. The contractor shall agree to Engineer's terms prior to Engineer approving Contractor's request to work other than Regular Working Hours.

SC-7.03 Add the following new subparagraphs immediately after Paragraph 7.03.C:

A. Owner's legal holidays are

Town Holiday's
Holiday
New Year's Day
Martin Luther King Jr.'s Birthday
Good Friday
Memorial Day
Juneteenth
Independence Day

Labor Day
Veteran's Day
Thanksgiving
Christmas

SC-7.03 Add the following new paragraph immediately after SC-7.03C

- B. The cost of such overtime Work or the performance of Work on a Saturday, Sunday, or any legal holiday shall be borne by the Contractor. Contractor shall reimburse the Owner for additional engineering and/or inspection costs incurred as a result of overtime work in excess of the Regular Working Hours stipulated in Paragraph SC 7.03C. At Owner's option, overtime costs may either be deducted from the Contractor's monthly payment request or deducted from the Contractor's retention prior to release of final payment. Overtime costs for the Owner's personnel shall be based on the individual's current overtime wage rate. Overtime costs for personnel employed by the Engineer or Owner's independent testing laboratory shall be calculated in accordance with the terms of their respective contracts with the Engineer or the Owner.

SC-7.04 Add the following new paragraphs immediately after 7.04C

- D. **Delivery of Equipment and Materials:** All materials and equipment delivered to the Site shall be accompanied by certificates signed by an authorized officer of the Supplier, and notarized, guaranteeing that the materials and equipment conform to Specification's requirements. Such certificates shall be immediately turned over to the Engineer. Materials and equipment delivered to the Site without such certificates shall be subject to rejection by the Engineer. The Contractor shall ensure that equipment and materials to be incorporated in the Work shall be delivered to the Site sufficiently in advance of their installation and use in order to prevent delay in the execution of the Work, and that they shall be delivered to the Site, as nearly as is feasible, in the other required for executing the Work. The Contractor shall provide for continuity of supply to avoid changes of supplies or manufacturers or changes in brands of materials during the Work. The Contractor shall deliver packaged materials to the Site in the manufacturer's original, unopened, labeled containers and shall not open such containers until the approximate time for the use of the contents.
- E. ***Storage and Protection of Equipment and Materials:*** The Contractor shall protect all equipment and materials from deterioration and damage, whether title to same has passed to the Owner or not. Any equipment or materials of whatever kind that may have been damaged or deteriorated from any cause shall be removed and replaced by new and satisfactory items, at the Contractor's expense, including expenses of labor and materials for such removal and replacement. The Contractor shall store all equipment and materials at the Site in accordance with the manufacturer's recommendations, as directed by the Engineer, and in conformity with applicable statutes, ordinances, regulations, and rulings of any public authority having jurisdiction. The Contractor shall store the cementitious and/or wood materials in dry, weather-tight, ventilated spaces. The Contractor shall store ferrous materials to prevent contact with the ground and to prevent rusting and damage from weather. The Contractor shall store masonry materials to prevent them from coming in contact with earth or staining materials and shall cover and protect such materials against weather, moisture, neglect and damage. The Contractor shall protect materials and equipment from equipment damage, weather, moisture, neglect, and construction operations. The Contractor shall not store unnecessary materials or

equipment on the Site and shall take care to prevent any structure from being loaded with a weight that may endanger its security or the safety of persons and property. If the Site is such that equipment and materials cannot be safely stored at the Site, then the Contractor shall be responsible for locating and providing storage areas for equipment and materials. Such storage shall comply with all applicable statutes, ordinances, regulations and rulings of public authorities having jurisdiction. The Contractor shall timely pay all storage fees for equipment and materials stored off-site.

7.13 *Safety and Protection*

SC-7.13 Insert the following after the second sentence of Paragraph 7.13.G:

The following Owner safety programs are applicable to the Work: **(none)**

ARTICLE 8—OTHER WORK AT THE SITE

8.02 *Coordination*

SC-8.02 Add the following new Paragraph 8.02.C immediately after Paragraph 8.02.B:

- C. Owner intends to contract with others for the performance of other work at or adjacent to the Site.
 - 1. (none)

ARTICLE 9—OWNER'S RESPONSIBILITIES

9.13 *Owner's Site Representative*

SC-9.13 Add the following new paragraph immediately after Paragraph 9.12 of the General Conditions:

9.13 *Owner's Site Representative*

- A. (Town of Clayton Engineering Department oversight)

ARTICLE 10—ARCHITECT'S/ENGINEER'S STATUS DURING CONSTRUCTION

10.03 *Resident Project Representative*

SC-10.03 Add the following new subparagraph immediately after Paragraph 10.03.A:

- 1. On this Project, by agreement with the Owner, the Engineer will not furnish a Resident Project Representative to represent Engineer at the Site or assist Engineer in observing the progress and quality of the Work.

SC-10.03 Add the following new paragraphs immediately after Paragraph 10.03.B:

- C. The Resident Project Representative (RPR) will be Engineer's representative at the Site. RPR's dealings in matters pertaining to the Work in general will be with Engineer and Contractor. RPR's dealings with Subcontractors will only be through or with the full knowledge or approval of Contractor. The RPR will:
 - 1. *Conferences and Meetings:* Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings

(but not including Contractor's safety meetings), and as appropriate prepare and circulate copies of minutes thereof.

2. *Safety Compliance:* Comply with Site safety programs, as they apply to RPR, and if required to do so by such safety programs, receive safety training specifically related to RPR's own personal safety while at the Site.
3. *Liaison*
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for Contractor's proper execution of the Work.
4. *Review of Work; Defective Work*
 - a. Conduct on-Site observations of the Work to assist Engineer in determining, to the extent set forth in Paragraph 10.02, if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Observe whether any Work in place appears to be defective.
 - c. Observe whether any Work in place should be uncovered for observation, or requires special testing, inspection or approval.
5. *Inspections and Tests*
 - a. Observe Contractor-arranged inspections required by Laws and Regulations, including but not limited to those performed by public or other agencies having jurisdiction over the Work.
 - b. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Work.
6. *Payment Requests:* Review Applications for Payment with Contractor.
7. *Completion*
 - a. Participate in Engineer's visits regarding Substantial Completion.
 - b. Assist in the preparation of a punch list of items to be completed or corrected.
 - c. Participate in Engineer's visit to the Site in the company of Owner and Contractor regarding completion of the Work, and prepare a final punch list of items to be completed or corrected by Contractor.
 - d. Observe whether items on the final punch list have been completed or corrected.

D. The RPR will not:

1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
2. Exceed limitations of Engineer's authority as set forth in the Contract Documents.

3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers.
4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction.
5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.
6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Engineer.
7. Authorize Owner to occupy the Project in whole or in part.

ARTICLE 11—CHANGES TO THE CONTRACT

No suggested Supplementary Conditions in this Article.

ARTICLE 12—CLAIMS

No suggested Supplementary Conditions in this Article.

ARTICLE 13—COST OF WORK; ALLOWANCES, UNIT PRICE WORK

13.01 *Cost of the Work*

SC-13.01 Supplement Paragraph 13.01.B.5.c.(2) by adding the following sentence:

The equipment rental rate book that governs the included costs for the rental of machinery and equipment owned by Contractor (or a related entity) under the Cost of the Work provisions of this Contract is the most current edition of **N/A**

SC-13.01 Supplement Paragraph 13.01.C.2 by adding the following definition of small tools and hand tools:

- a. For purposes of this paragraph, “small tools and hand tools” means any tool or equipment whose current price if it were purchased new at retail would be less than \$500.

13.03 *Unit Price Work*

SC-13.03 Delete Paragraph 13.03.E in its entirety and insert the following in its place:

E. *Adjustments in Unit Price*

1. Contractor or Owner shall be entitled to an adjustment in the unit price with respect to an item of Unit Price Work if:
 - a. the extended price of a particular item of Unit Price Work amounts to **25%** percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than **25%** percent from the estimated quantity of such item indicated in the Agreement; and

- b. Contractor's unit costs to perform the item of Unit Price Work have changed materially and significantly as a result of the quantity change.
2. The adjustment in unit price will account for and be coordinated with any related changes in quantities of other items of Work, and in Contractor's costs to perform such other Work, such that the resulting overall change in Contract Price is equitable to Owner and Contractor.
3. Adjusted unit prices will apply to all units of that item.

ARTICLE 14—TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

No suggested Supplementary Conditions in this Article.

ARTICLE 15—PAYMENTS TO CONTRACTOR, SET OFFS; COMPLETIONS; CORRECTION PERIOD

15.01 *Progress Payments*

SC-15.01 Add the following new Paragraph 15.01.F:

- F. For contracts in which the Contract Price is based on the Cost of Work, if Owner determines that progress payments made to date substantially exceed the actual progress of the Work (as measured by reference to the Schedule of Values), or present a potential conflict with the Guaranteed Maximum Price, then Owner may require that Contractor prepare and submit a plan for the remaining anticipated Applications for Payment that will bring payments and progress into closer alignment and take into account the Guaranteed Maximum Price (if any), through reductions in billings, increases in retainage, or other equitable measures. Owner will review the plan, discuss any necessary modifications, and implement the plan as modified for all remaining Applications for Payment.

15.03 *Substantial Completion*

SC-15.03 Add the following new subparagraph to Paragraph 15.03.B:

1. If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel and living expenses, will be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under this Article 15.

15.08 *Correction Period*

SC-15.08 Add the following new Paragraph 15.08.G:

- G. The correction period specified as one year after the date of Substantial Completion in Paragraph 15.08.A of the General Conditions is hereby revised to be the number of years set forth in SC-6.01.B.1; or if no such revision has been made in SC-6.01.B, then the correction period is hereby specified to be **[number]** years after Substantial Completion.

ARTICLE 16—SUSPENSION OF WORK AND TERMINATION

No suggested Supplementary Conditions in this Article.

ARTICLE 17—FINAL RESOLUTIONS OF DISPUTES

17.02 *Arbitration*

SC-17.02 Add the following new paragraph immediately after Paragraph 17.01.

17.02 *Arbitration*

- A. All matters subject to final resolution under this Article will be settled by arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules (subject to the conditions and limitations of this Paragraph SC-17.02). Any controversy or claim in the amount of \$100,000 or less will be settled in accordance with the American Arbitration Association's supplemental rules for Fixed Time and Cost Construction Arbitration. This agreement to arbitrate will be specifically enforceable under the prevailing law of any court having jurisdiction.
- B. The demand for arbitration will be filed in writing with the other party to the Contract and with the selected arbitration administrator, and a copy will be sent to Engineer for information. The demand for arbitration will be made within the specific time required in Article 17, or if no specified time is applicable within a reasonable time after the matter in question has arisen, and in no event will any such demand be made after the date when institution of legal or equitable proceedings based on such matter in question would be barred by the applicable statute of limitations.
- C. The arbitrator(s) must be licensed engineers, contractors, attorneys, or construction managers. Hearings will take place pursuant to the standard procedures of the Construction Arbitration Rules that contemplate in-person hearings. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing party's actual damages, except as may be required by statute or the Contract. Any award in an arbitration initiated under this clause will be limited to monetary damages and include no injunction or direction to any party other than the direction to pay a monetary amount.
- D. The Arbitrators will have the authority to allocate the costs of the arbitration process among the parties, but will only have the authority to allocate attorneys' fees if a specific Law or Regulation or this Contract permits them to do so.
- E. The award of the arbitrators must be accompanied by a reasoned written opinion and a concise breakdown of the award. The written opinion will cite the Contract provisions deemed applicable and relied on in making the award.
- F. The parties agree that failure or refusal of a party to pay its required share of the deposits for arbitrator compensation or administrative charges will constitute a waiver by that party to present evidence or cross-examine witness. In such event, the other party shall be required to present evidence and legal argument as the arbitrator(s) may require for the making of an award. Such waiver will not allow for a default judgment against the non-paying party in the absence of evidence presented as provided for above.

- G. No arbitration arising out of or relating to the Contract will include by consolidation, joinder, or in any other manner any other individual or entity (including Engineer, and Engineer's consultants and the officers, directors, partners, agents, employees or consultants of any of them) who is not a party to this Contract unless:
1. the inclusion of such other individual or entity will allow complete relief to be afforded among those who are already parties to the arbitration;
 2. such other individual or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration, and which will arise in such proceedings;
 3. such other individual or entity is subject to arbitration under a contract with either Owner or Contractor, or consents to being joined in the arbitration; and
 4. the consolidation or joinder is in compliance with the arbitration administrator's procedural rules.
- H. The award will be final. Judgment may be entered upon it in any court having jurisdiction thereof, and it will not be subject to modification or appeal, subject to provisions of the Laws and Regulations relating to vacating or modifying an arbitral award.
- I. Except as may be required by Laws or Regulations, neither party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties, with the exception of any disclosure required by Laws and Regulations or the Contract. To the extent any disclosure is allowed pursuant to the exception, the disclosure must be strictly and narrowly limited to maintain confidentiality to the extent possible.

17.03 *Attorneys' Fees*

SC-17.03 Add the following new paragraph immediately after Paragraph 17.02. [Note: If there is no Paragraph 17.02, because neither arbitration nor any other dispute resolution process has been specified here in the Supplementary Conditions, then revise this to state "Add the following new Paragraph immediately after Paragraph 17.01" and revise the numbering accordingly].

17.03 *Attorneys' Fees*

- A. For any matter subject to final resolution under this Article, the prevailing party shall be entitled to an award of its attorneys' fees incurred in the final resolution proceedings, in an equitable amount to be determined in the discretion of the court, arbitrator, arbitration panel, or other arbiter of the matter subject to final resolution, taking into account the parties' initial demand or defense positions in comparison with the final result.

ARTICLE 18—MISCELLANEOUS

18.08 *Assignment of Contract*

SC-18.08 Add the following new paragraph immediately after Paragraph 18.08.A:

- B. The contract dated **[date]** between Owner as "buyer" and **[identify seller]** as "seller" for procurement of goods and special services ("procurement contract") **[is hereby] [will be]**

assigned to Contractor by Owner, and Contractor **[accepts] [will accept]** such assignment. A form documenting the assignment is attached as an exhibit to this Contract.

1. This assignment will occur on the **[Effective Date of the Contract]**, and will relieve the Owner as “buyer” from all further obligations and liabilities under the procurement contract.
2. Upon assignment, the “seller” will be a Subcontractor or Supplier of the Contractor, and Contractor will be responsible for seller’s performance, acts, and omissions, as set forth in Paragraph 7.07 of the General Conditions just as Contractor is responsible for all other Subcontractors and Suppliers.
3. Notwithstanding this assignment, all performance guarantees and warranties required by the procurement contract will continue to run for the benefit of the Owner and, in addition, for the benefit of the Contractor.
4. Except as noted in the procurement contract, all rights, duties and obligations of Engineer to “buyer” and “seller” under the procurement contract will cease **[upon the assignment to Contractor]**.

EXHIBIT A—SOFTWARE REQUIREMENTS FOR ELECTRONIC DOCUMENT EXCHANGE

Item	Electronic Documents	Transmittal Means	Data Format	Note (1)
a.1	General communications, transmittal covers, meeting notices and responses to general information requests for which there is no specific prescribed form.	Email	Email	
a.2	Meeting agendas, meeting minutes, RFI's and responses to RFI's, and Contract forms.	Email w/ Attachment	PDF	(2)
a.3	Contactors Submittals (Shop Drawings, "or equal" requests, substitution requests, documentation accompanying Sample submittals and other submittals) to Owner and Engineer, and Owner's and Engineer's responses to Contractor's Submittals, Shop Drawings, correspondence, and Applications for Payment.	Email w/ Attachment	PDF	
a.4	Correspondence; milestone and final version Submittals of reports, layouts, Drawings, maps, calculations and spreadsheets, Specifications, Drawings and other Submittals from Contractor to Owner or Engineer and for responses from Engineer and Owner to Contractor regarding Submittals.	Email w/ Attachment or LFE	PDF	
a.5	Layouts and drawings to be submitted to Owner for future use and modification.	Email w/ Attachment or LFE	DWG	
a.6	Correspondence, reports and Specifications to be submitted to Owner for future word processing use and modification.	Email w/ Attachment or LFE	DOC	
a.7	Spreadsheets and data to be submitted to Owner for future data processing use and modification.	Email w/ Attachment or LFE	EXC	
a.8	Database files and data to be submitted to Owner for future data processing use and modification.	Email w/ Attachment or LFE	DB	
Notes				
(1)	All exchanges and uses of transmitted data are subject to the appropriate provisions of Contract Documents.			
(2)	Transmittal of written notices is governed by Paragraph 18.01 of the General Conditions.			
Key				
Email	Standard Email formats (.htm, .rtf, or .txt). Do not use stationery formatting or other features that impair legibility of content on screen or in printed copies			
LFE	Agreed upon Large File Exchange method (FTP, CD, DVD, hard drive)			
PDF	Portable Document Format readable by Adobe® Acrobat Reader Version [number] or later			
DWG	Autodesk® AutoCAD .dwg format Version [number]			
DOC	Microsoft® Word .docx format Version [number]			
EXC	Microsoft® Excel .xls or .xml format Version [number]			
DB	Microsoft® Access .mdb format Version [number]			

EXHIBIT B—GEOTECHNICAL BASELINE REPORT SUPPLEMENT TO THE SUPPLEMENTARY CONDITIONS

1.01 Definitions

SC-1.01 Add to the list of definitions in Paragraph 1.01.A by inserting the following as numbered items in their proper alphabetical positions:

1. *Geotechnical Baseline Report (GBR)*—The interpretive report prepared by or for Owner regarding subsurface conditions at the Site, and containing specific baseline geotechnical conditions that may be anticipated or relied upon for bidding and contract administration purposes, subject to the controlling provisions of the Contract, including the GBR's own terms. The GBR is a Contract Document.
2. *Geotechnical Data Report (GDR)*—The factual report that collects and presents data regarding actual subsurface conditions at or adjacent to the Site, including Technical Data and other geotechnical data, prepared by or for Owner in support of the Geotechnical Baseline Report. The GDR's content may include logs of borings, trenches, and other site investigations, recorded measurements of subsurface water levels, the results of field and laboratory testing, and descriptions of the investigative and testing programs. The GDR does not include an interpretation of the data. If opinions, or interpretive or speculative non-factual comments or statements appear in a document that is labeled a GDR, such opinions, comments, or statements are not operative parts of the GDR and do not have contractual standing. Subject to that exception, the GDR is a Contract Document.

5.03 Subsurface and Physical Conditions

SC-5.03 Delete Paragraph 5.03 in its entirety and replace with the following:

5.03 Subsurface and Physical Conditions

A. *Reports and Drawings*: The Supplementary Conditions hereby identify:

1. those reports of explorations and tests of subsurface conditions at or adjacent to the Site (other than any Geotechnical Data Report or Geotechnical Baseline Report) that contain Technical Data. Such reports are as follows:
 - a. *Report Title*: **N/A**
 - b. *Date of Report*: **N/A**
 - c. *Technical Data in report upon which Contractor may rely*: **N/A**
2. those drawings of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data. Such drawings are as follows:
 - a. *Drawings and Date created*: **Library Original (1979), Library Addition (1994), Library Conference Room Addition (2002), Library SW Conference Room Addition (2006)**

3. Contractor may examine copies of reports and drawings identified immediately above that were not included with the Bidding Documents at **[location]** during regular business hours, or may request copies from Engineer, at the cost of reproduction.
- B. *Underground Facilities:* Underground Facilities are shown or indicated on the Drawings, pursuant to Paragraph 5.05, and not in the drawings referred to in Paragraph SC-5.03.A. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.
- C. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data as defined in Paragraph 1.01.A.46.b.
- D. *Limitations of Other Data and Documents:* Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 3. the contents of other Site-related documents made available to Contractor, such as record drawings from other projects at or adjacent to the Site, or Owner's archival documents concerning the Site; or
 4. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

SC-5.04 Delete Paragraph 5.04 in its entirety and replace with the following:

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice:* If Contractor believes that any subsurface condition that is uncovered or revealed at the Site:
 1. differs materially from conditions shown or indicated in the GBR; or
 2. differs materially from conditions shown or indicated in the GDR, to the extent the GBR is inapplicable; or
 3. differs materially from conditions shown or indicated in Contract Documents other than the GBR or GDR, to the extent the GBR and GDR are inapplicable; or
 4. to the extent the GBR and GDR are inapplicable, is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or

5. to the extent the GBR and GDR are inapplicable, is of such a nature as to require a change in the Drawings or Specifications; or
6. to the extent the GBR and GDR are inapplicable, is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph SC-5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption or continuation of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption or continuation of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Early Resumption of Work:* If at any time Engineer determines that Work in connection with the subsurface or physical condition in question may resume prior to completion of Engineer's review or Owner's issuance of its statement to Contractor, because the condition in question has been adequately documented, and analyzed on a preliminary basis, then the Engineer may at its discretion instruct Contractor to resume such Work.
- E. *Possible Price and Times Adjustments*
 1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must fall within any one or more of the categories described in Paragraph SC-5.04.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03 of the General Conditions; and

- c. Contractor's entitlement to an adjustment of the Contract Times is subject to the provisions of Paragraphs 4.05.D and 4.05.E.
 - 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or
 - c. Contractor failed to give the written notice as required by Paragraph SC-5.04.A.
 - 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, then any such adjustment must be set forth in a Change Order.
 - 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.
- F. *Underground Facilities; Hazardous Environmental Conditions:* Paragraph 5.05 of the General Conditions governs rights and responsibilities regarding the presence or location of Underground Facilities. Paragraph 5.06 of the General Conditions governs rights and responsibilities regarding Hazardous Environmental Conditions. The provisions of Paragraphs SC-5.03 and SC-5.04 are not applicable to the presence or location of Underground Facilities, or to Hazardous Environmental Conditions.

SECTION 012300 – ALTERNATES

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 01 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. Section includes administrative and procedural requirements for alternates.

1.3 DEFINITIONS

- A. Alternate: An amount proposed by bidders and stated on the Bid Form for certain work defined in the bidding requirements that may be added to or deducted from the base bid amount if Owner decides to accept a corresponding change either in the amount of construction to be completed or in the products, materials, equipment, systems, or installation methods described in the Contract Documents.
 - 1. Alternates described in this Section are part of the Work only if enumerated in the Agreement.
 - 2. The cost or credit for each Alternate is the net addition to or deduction from the Contract Sum to incorporate an Alternate into the Work. No other adjustments are made to the Contract Sum.

1.4 PROCEDURES

- A. Coordination: Revise or adjust affected adjacent work as necessary to completely integrate work of the Alternate into Project.
 - 1. Include as part of each Alternate, miscellaneous devices, accessory objects, and similar items incidental to or required for a complete installation whether or not indicated as part of Alternate.
- B. Execute accepted Alternates under the same conditions as other Work of the Contract.
- C. Schedule: A Schedule of Alternates is included at the end of this Section. Specification Sections referenced in schedule contain requirements for materials necessary to achieve the work described under each Alternate.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 SCHEDULE OF BID ALTERNATES – NONE

3.2 SCHEDULE OF PREFERRED-BRAND-ALTERNATES

A. Preferred-Brand Alternate No. 1: Door Cylinders and Locks

1. Base Bid: Provide Door Cylinders and Locks as scheduled by single source manufacturer.
2. Bid Alternate: Provide Door Cylinders by Keymark and Locks by Schlage.
3. Preferred Brand Alternate Explanation:
 - a. Keymark cylinders and Schlage locks are high quality and provide superior performance, maintenance and durability in comparison to other brands. The service provided by this manufacturer representative is exceptional when compared to other manufacturer representatives. This product also improves the functioning of the maintenance department because the owner only has to stock replacement parts for one type of lock and cylinder. Using only one product reduces the overall required training and decreases the manhours required for repairs. Also, standardizing on Schlage allows the owner to keep (or form) a Grand Master keyway system which is an important security feature. This item is being item be bid as an alternate due to the long-term cost savings received through the product's quality and durability. Also, rekeying of the existing cylinders shall be by Marshall's Locksmith since they control Town of Clayton's master key system.

B. Preferred-Brand Alternate No. 2: Door Closers

1. Base Bid: Provide Door Closers as scheduled by any approved manufacturer.
2. Bid Alternate: Provide Door Closers by Sargent.
3. Preferred Brand Alternate Explanation:
 - a. Sargent closers are high quality closers that provide excellent performance, maintenance, and greater durability in comparison to other brands. In addition, they are heavier and have less moving parts, which results in fewer failures. The service provided by each manufacturer's representative is exceptional when compared to other manufacturers. Use of these products also improves the functioning of the maintenance department because they will stock replacement parts for only two exit devices. The use of two products also reduces the amount of required training. Both staff familiarity and product robustness decrease the man hours required for repairs. These items are being bid as an alternate due to the long-term cost savings received through the product's quality and durability.

C. Preferred-Brand Alternate No. 3: Door Overhead Stops

1. Base Bid: Provide Door Overhead Stops & Magnetic Holders as scheduled by any approved manufacturer.
2. Bid Alternate: Provide Door Overhead Stops by Sargent.
3. Preferred Brand Alternate Explanation:
 - a. Sargent overhead stops are high quality devices that provide excellent performance, maintenance, and greater durability in comparison to other brands. In addition, they are heavier and have less moving parts, which results in fewer failures. The service provided by each manufacturer's representative is exceptional when compared to other manufacturers.

END OF SECTION 012300

SECTION 096519 - RESILIENT TILE FLOORING

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 01 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. Section Includes:
 - 1. Luxury Vinyl floor tile.

1.3 ACTION SUBMITTALS

- A. Product Data: For each type of product.
- B. Shop Drawings: For each type of resilient floor tile.
 - 1. Include floor tile layouts, edges, columns, doorways, enclosing partitions, built-in furniture, cabinets, and cutouts.
 - 2. Show details of special patterns.
- C. Samples: Full-size units of each color, texture, and pattern of floor tile required.
- D. Product Schedule: For floor tile. Use same designations indicated on Drawings.

1.4 INFORMATIONAL SUBMITTALS

- A. Qualification Data: For Installer.

1.5 CLOSEOUT SUBMITTALS

- A. Maintenance Data: For each type of floor tile to include in maintenance manuals.

1.6 MAINTENANCE MATERIAL SUBMITTALS

- A. Furnish extra materials, from the same product run, that match products installed and that are packaged with protective covering for storage and identified with labels describing contents.
 - 1. Floor Tile: Furnish one box of each type, color, and pattern of floor tile installed.
 - 2. .

1.7 QUALITY ASSURANCE

- A. Installer Qualifications: An entity that employs installers and supervisors who are competent in techniques required by manufacturer for floor tile installation and seaming method indicated.
 - 1. Engage an installer who employs workers for this Project who are trained or certified by floor tile manufacturer for installation techniques required.

1.8 DELIVERY, STORAGE, AND HANDLING

- A. Store floor tile and installation materials in dry spaces protected from the weather, with ambient temperatures maintained within range recommended by manufacturer, but not less than 50 deg F (10 deg C) or more than 90 deg F (32 deg C). Store floor tiles on flat surfaces.

1.9 FIELD CONDITIONS

- A. Maintain ambient temperatures within range recommended by manufacturer, but not less than 70 deg F (21 deg C) or more than 95 deg F (35 deg C), in spaces to receive floor tile during the following periods:
 - 1. 48 hours before installation.
 - 2. During installation.
 - 3. 48 hours after installation.
- B. After installation and until Substantial Completion, maintain ambient temperatures within range recommended by manufacturer, but not less than 55 deg F (13 deg C) or more than 95 deg F (35 deg C).
- C. Close spaces to traffic during floor tile installation.
- D. Close spaces to traffic for 48 hours after floor tile installation.
- E. Install floor tile after other finishing operations, including painting, have been completed.

PART 2 - PRODUCTS

2.1 PERFORMANCE REQUIREMENTS

- A. Fire-Test-Response Characteristics: For resilient floor tile, as determined by testing identical products according to ASTM E648 or NFPA 253 by a qualified testing agency.
 - 1. Critical Radiant Flux Classification: Class I, not less than 0.45 W/sq. cm.

2.2 LUXURY VINYL FLOOR TILE

- A. Acceptable manufacturers include, but not limited to:
 - 1. Milliken

2. Armstrong
 3. Amtico
 4. AvaFlor
- B. Tile Standard: ASTM F1066, Class 3, surface pattern.
- C. Wearing Surface: Smooth.
- D. Size: As indicated on drawings
- E. Colors and Patterns: As indicated on Drawings

2.3 INSTALLATION MATERIALS

- A. Trowelable Leveling and Patching Compounds: Latex-modified, portland-cement-based or blended hydraulic-cement-based formulation provided or approved by floor tile manufacturer for applications indicated.
- B. Adhesives: Water-resistant type recommended by floor tile and adhesive manufacturers to suit floor tile and substrate conditions indicated.
- C. Floor Polish: Provide protective, liquid floor-polish products recommended by floor tile manufacturer.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine substrates, with Installer present, for compliance with requirements for maximum moisture content and other conditions affecting performance of the Work.
1. Verify that finishes of substrates comply with tolerances and other requirements specified in other Sections and that substrates are free of cracks, ridges, depressions, scale, and foreign deposits that might interfere with adhesion of floor tile.
- B. Proceed with installation only after unsatisfactory conditions have been corrected.

3.2 PREPARATION

- A. Prepare substrates according to floor tile manufacturer's written instructions to ensure adhesion of resilient products.
- B. Concrete Substrates: Prepare according to ASTM F710.
1. Verify that substrates are dry and free of curing compounds, sealers, and hardeners.
 2. Remove substrate coatings and other substances that are incompatible with adhesives and that contain soap, wax, oil, or silicone, using mechanical methods recommended by floor tile manufacturer. Do not use solvents.

3. Alkalinity and Adhesion Testing: Perform tests recommended by floor tile manufacturer. Proceed with installation only after substrate alkalinity falls within range on pH scale recommended by manufacturer in writing, but not less than 5 or more than 10 pH.
4. Moisture Testing: Perform tests so that each test area does not exceed 200 sq. ft. (18.6 sq. m), and perform no fewer than three tests in each installation area and with test areas evenly spaced in installation areas.
 - a. Anhydrous Calcium Chloride Test: ASTM F1869. Proceed with installation only after substrates have maximum moisture-vapor-emission rate of 3 lb of water/1000 sq. ft. (1.36 kg of water/92.9 sq. m) in 24 hours.
 - b. Relative Humidity Test: Using in-situ probes, ASTM F2170. Proceed with installation only after substrates have a maximum 75 percent relative humidity level measurement.
- C. Fill cracks, holes, and depressions in substrates with trowelable leveling and patching compound; remove bumps and ridges to produce a uniform and smooth substrate.
- D. Do not install floor tiles until materials are the same temperature as space where they are to be installed.
 1. At least 48 hours in advance of installation, move resilient floor tile and installation materials into spaces where they will be installed.
- E. Immediately before installation, sweep and vacuum clean substrates to be covered by resilient floor tile.

3.3 FLOOR TILE INSTALLATION

- A. Comply with manufacturer's written instructions for installing floor tile.
- B. Lay out floor tiles from center marks established with principal walls, discounting minor offsets, so tiles at opposite edges of room are of equal width. Adjust as necessary to avoid using cut widths that equal less than one-half tile at perimeter.
 1. Lay tiles square with room axis.
- C. Match floor tiles for color and pattern by selecting tiles from cartons in the same sequence as manufactured and packaged, if so numbered. Discard broken, cracked, chipped, or deformed tiles.
 1. Lay tiles in pattern of colors and sizes indicated.
- D. Scribe, cut, and fit floor tiles to butt neatly and tightly to vertical surfaces and permanent fixtures including built-in furniture, cabinets, pipes, outlets, and door frames.
- E. Extend floor tiles into toe spaces, door reveals, closets, and similar openings. Extend floor tiles to center of door openings.
- F. Maintain reference markers, holes, and openings that are in place or marked for future cutting by repeating on floor tiles as marked on substrates. Use chalk or other nonpermanent marking device.

- G. Install floor tiles on covers for telephone and electrical ducts, building expansion-joint covers, and similar items in installation areas. Maintain overall continuity of color and pattern between pieces of tile installed on covers and adjoining tiles. Tightly adhere tile edges to substrates that abut covers and to cover perimeters.
- H. Adhere floor tiles to substrates using a full spread of adhesive applied to substrate to produce a completed installation without open cracks, voids, raising and puckering at joints, telegraphing of adhesive spreader marks, and other surface imperfections.
- I. Seamless Installation:
 - 1. Heat-Welded Seams: Comply with ASTM F1516. Rout joints and heat weld with welding bead to fuse sections permanently into a seamless flooring installation. Prepare, weld, and finish seams to produce surfaces flush with adjoining flooring surfaces.
 - 2. Chemically Bonded Seams: Bond seams with chemical-bonding compound to fuse sections permanently into a seamless flooring installation. Prepare seams and apply compound to produce tightly fitted seams without gaps, overlays, or excess bonding compound on flooring surfaces.
- J. Resilient Terrazzo Accessories: Install according to manufacturer's written instructions.

3.4 CLEANING AND PROTECTION

- A. Comply with manufacturer's written instructions for cleaning and protecting floor tile.
- B. Perform the following operations immediately after completing floor tile installation:
 - 1. Remove adhesive and other blemishes from surfaces.
 - 2. Sweep and vacuum surfaces thoroughly.
 - 3. Damp-mop surfaces to remove marks and soil.
- C. Protect floor tile from mars, marks, indentations, and other damage from construction operations and placement of equipment and fixtures during remainder of construction period.
- D. Floor Polish: Remove soil, adhesive, and blemishes from floor tile surfaces before applying liquid floor polish.
 - 1. Apply two coat(s).
- E. Joint Sealant: Apply sealant to resilient terrazzo floor tile perimeter and around columns, at door frames, and at other joints and penetrations.
- F. Cover floor tile until Substantial Completion.

END OF SECTION 096519

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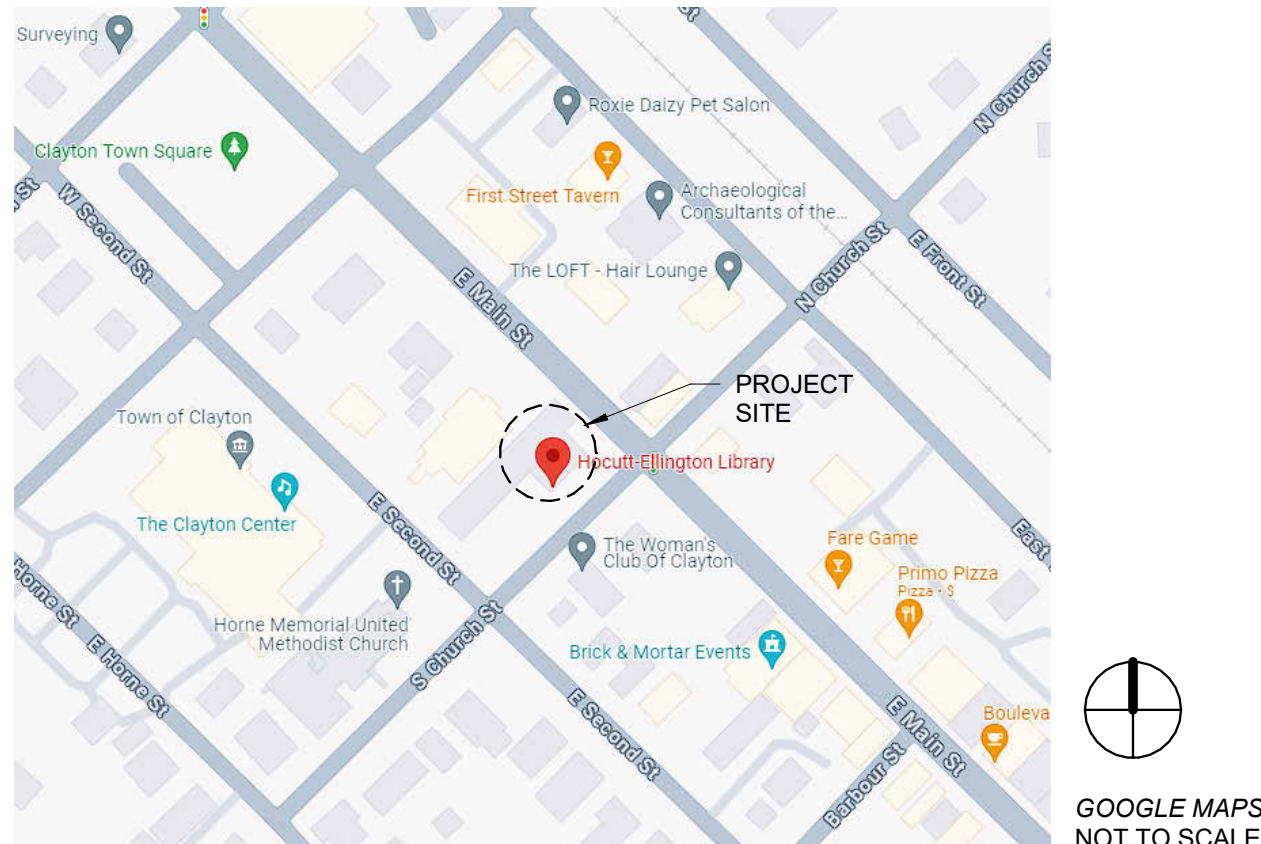


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VICINITY MAP



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E502	ELECTRICAL SCHEDULES
E601	ELECTRICAL DETAILS

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COST ESTIMATION

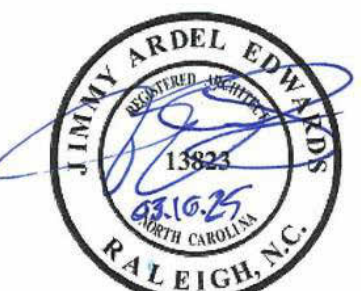
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BID DOCUMENTS

SEALS



DKA JOB NUMBER

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REVISIONS

1	ADD 1	04/10/25

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BID DOCUMENTS

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SHEET TITLE

COVER SHEET

G001

PROJECT INFORMATION

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TOWN OF CLAYTON

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CLAYTON, NC 27520

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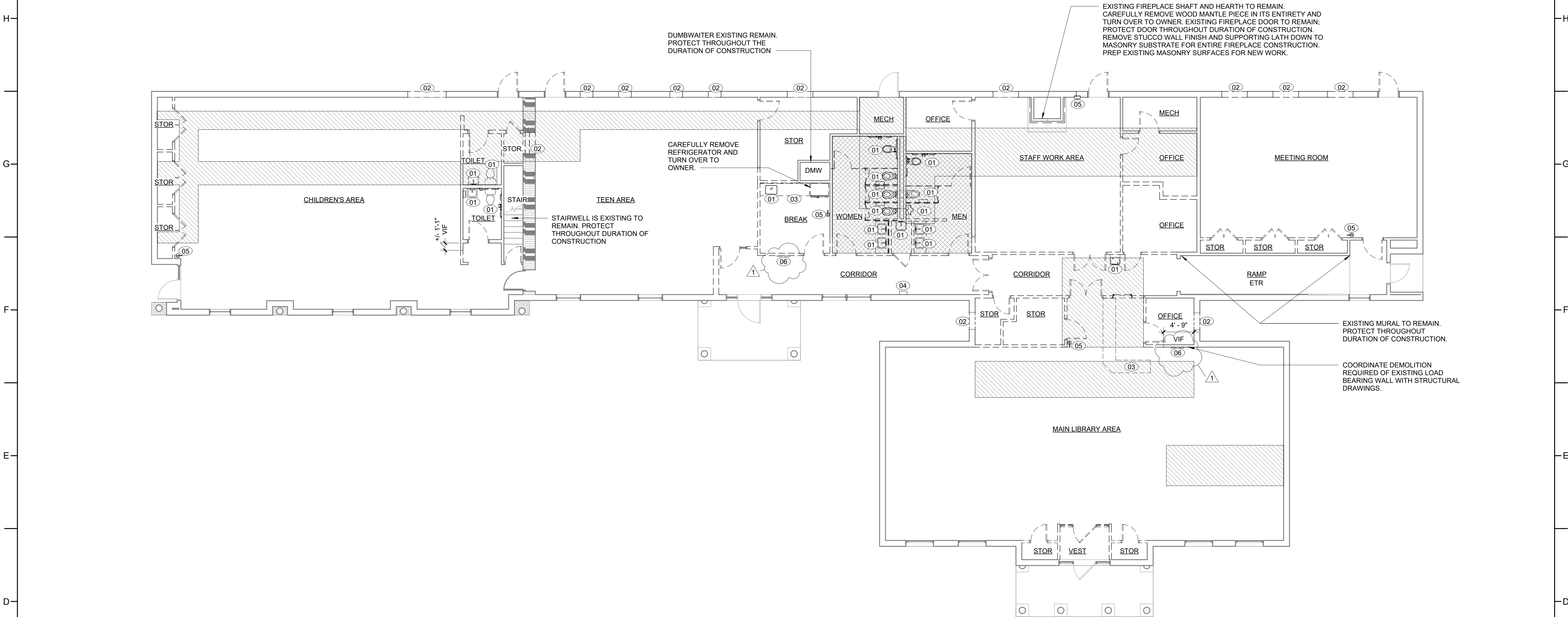
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03/10/2025

SHEET TITLE

DEMOLITION PLAN

DA100



D1 DEMOLITION PLAN
1/8" = 1'-0"

DEMOLITION PLAN KEY NOTES

KEY NOTES SUPPLEMENT INFORMATION FOUND ELSEWHERE IN THE DRAWINGS. REFER TO OTHER SHEETS FOR GENERAL PROJECT NOTES, PARTITION NOTES, LEGENDS, AND ADDITIONAL REQUIREMENTS.

01	DEMOLISH PLUMBING FIXTURES INCLUDING ANCHORS AND SUPPORTS. REMOVE ALL WALL-MOUNTED ACCESSORIES AND DISPOSE OF AFTER GIVING OWNER FIRST RIGHT OF REFUSAL. SEE PLUMBING SHEETS FOR ADDITIONAL INFORMATION.
02	NEW OPENING. COORDINATE OPENING SIZE AND EXTENTS WITH RENOVATION PLANS.
03	DEMOLISH CASEWORK IN ITS ENTIRETY.
04	CAREFULLY REMOVE AND SALVAGE AED CABINET. STORE AND PROTECT THROUGHOUT DURATION OF CONSTRUCTION FOR LATER REINSTALLATION IN NEW LOCATION.
05	CAREFULLY REMOVE AND SALVAGE FIRE EXTINGUISHER AND CABINET (IF APPLICABLE). STORE AND PROTECT THROUGHOUT DURATION OF CONSTRUCTION FOR LATER REINSTALLATION IN NEW LOCATION.
06	CAREFULLY REMOVE PLAQUE AND RETURN TO OWNER.

REMOVE EXISTING MUDDED DOWN TO EXISTING RECESSED SLAB AS REQUIRED FOR NEW WORK.

DEMOLISH EXISTING SLAB AS REQUIRED FOR UNDERGROUND WORK WITHIN THE EXTENTS AS INDICATED BY HATCH. PATCH CONCRETE TO MATCH EXISTING CONDITIONS. COORDINATE WITH PME AND STRUCT DWGS.

DEMOLITION GENERAL NOTES

- DASHED LINES INDICATE WALL, STRUCTURE, OR OTHER BUILDING COMPONENTS THAT SHALL BE DEMOLISHED IN THEIR ENTIRETY, INCLUDING CONCEALED CONSTRUCTION, UNLESS NOTED OTHERWISE. SEE KEY NOTES FOR MORE SPECIFIC INFORMATION FOR INDIVIDUAL AREAS.
- SEE RENOVATION FLOOR PLANS FOR LAYOUT DIMENSIONS FOR NEW OPENINGS NOT SHOWN ON DEMO PLANS.
- EXISTING WINDOW TREATMENTS TO REMAIN. PROTECT THROUGHOUT THE DURATION OF CONSTRUCTION.
- PLUMBING, ELECTRICAL, MECHANICAL, SPECIAL SYSTEMS, AND OTHER BUILDING SYSTEM COMPONENTS NOTED ON PLAN TO BE DEMOLISHED SHALL BE FULLY AND COMPLETELY DEMOLISHED AND REMOVED, UNLESS NOTED OTHERWISE. EXPOSED AND RECESSED CONDUIT, PIPING, BOXES, PANELS, SWITCHGEAR, JUNCTIONS, FITTINGS, WIRES, PIPES, DUCTS, EQUIPMENT, ANCHORS, AND FASTENERS SHALL BE DEMOLISHED. "RECESSED" SHALL MEAN COMPONENTS THAT ARE CONTAINED WITHIN A WALL, FLOOR, OR CEILING SURFACE. PIPING FULLY CONCEALED WITHIN MASONRY WALLS OR CONCRETE MAY REMAIN IF STABLE AND SECURELY SUPPORTED BY BUILDING STRUCTURE.
- CUT AND PATCH WALLS, FLOORS, AND ROOF AS REQUIRED TO REMOVE EXISTING MATERIALS AND EQUIPMENT AND TO INSTALL ALL NEW WORK, INCLUDING THAT RELATED TO PLUMBING, MECHANICAL, AND ELECTRICAL SYSTEMS. REFERENCE ALL DRAWINGS TO DETERMINE THE EXTENT OF CUTTING AND PATCHING. PATCHING, BACKFILL, REPAIRS, ETC. SHALL EQUAL OR EXCEED EXISTING CONDITIONS OR SURROUNDING WORK. COORDINATE ALL RELATED WORK, COSTS, AND EXTENT OF THE WORK, EITHER GC SELF-PERFORMED OR DELEGATED TO SUB-CONTRACTORS. SEE SPECIFICATION SECTION "EXECUTION" FOR ADDITIONAL REQUIREMENTS FOR CONTRACTORS.
- WHERE SELECTIVE DEMOLITION IS INDICATED, IT IS THE INTENT THAT THE SELECTIVE DEMOLITION WORK WILL RESULT IN A BUILDING AREA FREE OF DEVICES, EQUIPMENT, MATERIALS, AND ANY OTHER MISCELLANEOUS COMPONENTS NOT REUSED IN THE NEW CONSTRUCTION UNLESS OTHERWISE NOTED. THIS INCLUDES FASTENERS, ANCHORS, HARDWARE, PROTRUDING NAILS AND SCREWS, EMBEDDED ANCHORS, BLOCKING, SLEEVES, ETC. THE DEMOLITION SHALL INCLUDE ALL ITEMS TO A CLEAN SLAB, WALL, OR CEILING. COORDINATE DEMOLITION EXTENTS WITH REQUIREMENTS FOR NEW WORK.
- DEMOLISH EXISTING MASONRY AS FOLLOWS:
A. IF NO HEIGHT IS GIVEN IN THE CONTRACT DOCUMENTS, DEMOLISH FULL HEIGHT TO UNDERSIDE OF STRUCTURE ABOVE.
B. FOR ANY REMAINING MASONRY ABOVE GIVEN HEIGHT OF DEMOLITION, PROVIDE SHORING AT NEW CUTS OR OPENINGS.
- DEMOLISH ALL APPLIED BASE AND FLOOR FINISHES, INCLUDING RESILIENT, CARPET, WOOD OR FAUX WOOD, EDGE STRIPS, THRESHOLDS, BASE, GLUE AND ADHESIVES, TO ACHIEVE A CLEAN STRUCTURAL SLAB OR WALL AND TO PREPARE FOR NEW FINISHES.
- DEMOLISH ALL EXISTING WALL AND FLOOR TILE. DEMOLITION FOR FLOOR TILE INCLUDES TILES, GROUT, MORTAR, LATH, & MUD BED DOWN TO A CLEAN STRUCTURAL SLAB. DEMOLITION FOR WALL TILE INCLUDES TILES, GROUT, MORTAR, LATH AND EXISTING SUBSTRATE DOWN TO STRUCTURAL WALL.
- DEMOLISH ALL EXISTING TOILET PARTITIONS & TOILET ROOM ACCESSORIES INCLUDING FASTENERS, ANCHORS, AND OTHER HARDWARE, UNLESS NOTED OTHERWISE.
- ALL EXISTING CONSTRUCTION AND ITEMS TO REMAIN SHALL BE PROTECTED THROUGHOUT CONSTRUCTION. CONTRACTOR IS RESPONSIBLE FOR ANY DAMAGES INCURRED DURING CONSTRUCTION ACTIVITIES INCLUDING FROM WETTING, PHYSICAL DAMAGE, SCRATCHES, MARRING, ETC.. CONTRACTOR SHALL REPAIR ANY SURFACES DAMAGED DURING TO DEMOLITION TO MATCH PREVIOUS OR ADJACENT CONDITION.
- DEMOLISH FLOOR DRAINS TO BOTTOM OF STRUCTURAL SLAB, UNLESS OTHERWISE NOTED TO REMAIN.
- REMOVE ALL LOOSE PAINT AND COATINGS FROM SURFACES DESIGNATED TO RECEIVE NEW PAINT OR FINISHES. RESULTING SURFACE SHALL BE DRY, NON-FLAKING, AND SECURELY ADHERED TO SUBSTRATE.
- REMOVE ALL INTERIOR DOORS AND FRAMES, UNLESS NOTED OTHERWISE. DISPOSE OF ALL DOOR HARDWARE AFTER GIVING OWNER FIRST RIGHT OF REFUSAL. DEMOLISH DOOR FRAMES, SIDELIGHT FRAMES AND GLAZING (UON). DEMOLITION SHALL INCLUDE BLOCKING, NAILS, TRANSOMS, ANCHORS, ETC. TO CLEAN MASONRY OR FRAMED OPENINGS.
- CUT AND DEMOLISH EXISTING SLAB, DECKS, WALLS, FLOORS FOR INSTALLATION OF NEW P, M, E, FP, OR OTHER BUILDING SYSTEMS. SEE PATCHING NOTES ELSEWHERE. SEE COORDINATION DRAWING REQUIREMENTS FOR LOCATION OF OPENINGS IN EXISTING WALLS AND SLABS.
- TAKE REQUIRED PRECAUTIONS TO PREVENT DAMAGE TO UNDERSLAB DRAINAGE SYSTEMS. RESTORE ANY DISTURBED PIPE OR STONE BACKFILL TO ORIGINAL CONDITION.
- DEMOLISH INTERIOR CEILINGS WHERE INDICATED, INCLUDING LAY-IN, SPLINE, AND GYP BOARD CEILING SYSTEMS. DEMOLISH IN ENTIRETY, INCLUDING HANGERS, WIRES, MOLDINGS, UNLESS NOTED OTHERWISE. PROTECT EXISTING BULKHEADS AND CEILINGS THAT ARE TO REMAIN. PROTECT EXISTING MECHANICAL, ELECTRICAL, FIRE ALARM DEVICES, AND FIXTURES TO REMAIN. SEE MECHANICAL AND ELECTRICAL DEMOLITION AND RENOVATION PLANS FOR ADDITIONAL REQUIREMENTS.
- REMOVE ALL INTERIOR SIGNAGE AND BRACKETS, INCLUDING ROOM IDENTIFICATION SIGNAGE, DEPARTMENTAL SIGNAGE AND WAYFINDING SIGNAGE. DISPOSE AFTER GIVING OWNER FIRST RIGHT OF REFUSAL.
- REMOVE ALL CASEWORK, SHELVING, COUNTERTOPS, MIRRORS, PROJECTION SCREENS, MARKERBOARDS, TACKBOARDS, TACKSTRIPS, DISPLAY CASES, TV BRACKETS, AND ALL OTHER WALL AND FLOOR MOUNTED EQUIPMENT/ FURNISHINGS, EXCEPT WHERE NOTED OTHERWISE. DISPOSE AFTER GIVING OWNER FIRST RIGHT OF REFUSAL. DEMOLITION SHALL INCLUDE SUPPORTS, FASTENERS, ADHESIVES, AND ANCHORS.
- CAREFULLY REMOVE ALL SOAP DISPENSORS, PAPER TOWEL DISPENSORS, BABY CHANGING STATIONS AND OTHER WALL MOUNTED TOILET ACCESSORIES. DISPOSE AFTER GIVING OWNER FIRST RIGHT OF REFUSAL.
- FURNITURE AND LOOSE EQUIPMENT SHALL BE REMOVED BY OWNER PRIOR TO THE COMMENCEMENT OF THE WORK. ANY REMAINING ITEMS SHALL BE DEMOLISHED BY CONTRACTOR, UNLESS NOTED OTHERWISE. CONTRACTOR TO COORDINATE WITH OWNER.
- DEMOLISH WALL BRACING WHERE WALLS SHALL BE DEMOLISHED.
- EXISTING BUILDING STRUCTURE SHALL REMAIN, UNLESS NOTED OTHERWISE. PROTECT DURING THE DEMOLITION AND NEW WORK PROCESS. REPAIR ANY SURFACES DAMAGED DURING DEMOLITION AND NEW WORK.
- PRIOR TO PERFORMING SLAB DEMOLITION, SURVEY ALL AREAS SCHEDULED FOR UNDER-SLAB CUTTING WITH PACHONMETER TESTING TO IDENTIFY PIPING, CONDUIT, OR OTHER ITEMS IMBEDDED AND IMMEDIATELY BELOW CONCRETE. TAKE NECESSARY PRECAUTIONS TO PRESERVE SYSTEMS INDICATED TO REMAIN. CUT AND REMOVE SLABS SCHEDULED FOR DEMOLITION AND REPLACE WHILE PROTECTING EXISTING SYSTEMS. SEE ELECTRICAL & PLUMBING DRAWINGS FOR ADDITIONAL REQUIREMENTS.
- ROOM NAMES AND NUMBERS ARE SHOWN ON THE DEMOLITION PLAN FOR DEMOLITION REFERENCE ONLY. NEW ROOM NAMES AND NUMBER ARE ASSIGNED ON THE RENOVATION PLAN.
- VERIFY IN FIELD THAT NEW OPENINGS, PENETRATIONS, AND DEMOLITION CUTS IN EXISTING ELEVATED FLOOR CONSTRUCTIONS ARE LOCATED BETWEEN EXISTING JOISTS AND/OR BEAMS. REPORT ANY BEAM/JOIST CONFLICTS TO ARCHITECT PRIOR TO PROCEEDING WITH DEMOLITION. ADJUST LOCATIONS OF DEMOLITION AS AGREED UPON BY ARCHITECT.

PROJECT INFORMATION

HOCUTT-ELLINGTON
LIBRARY RENOVATION
TOWN OF CLAYTON

100 CHURCH ST.
CLAYTON, NC 27520

SEALS



DKA JOB NUMBER
2415

REVISIONS		
1	ADD 1	04/10/25

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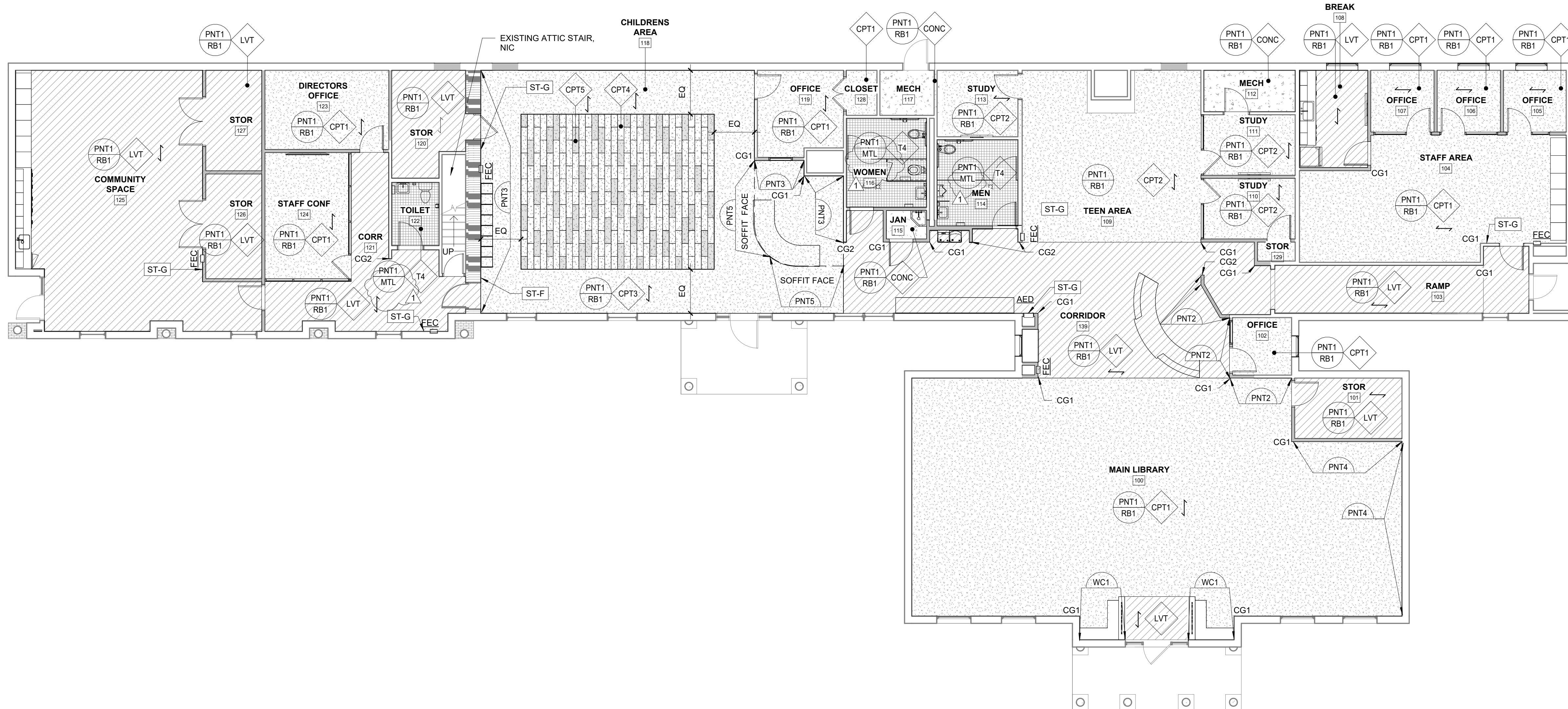
PA: JIMMY ARDEL EDWARDS
PM: CV
Drawn By: BG
Plot Date: 4/10/2025 2:27:18 PM

DATE ISSUED

BID DOCUMENTS
03/10/2025

SHEET TITLE
FINISH PLAN &
SIGNAGE

I100



D1 FINISH PLAN
1/8" = 1'-0"

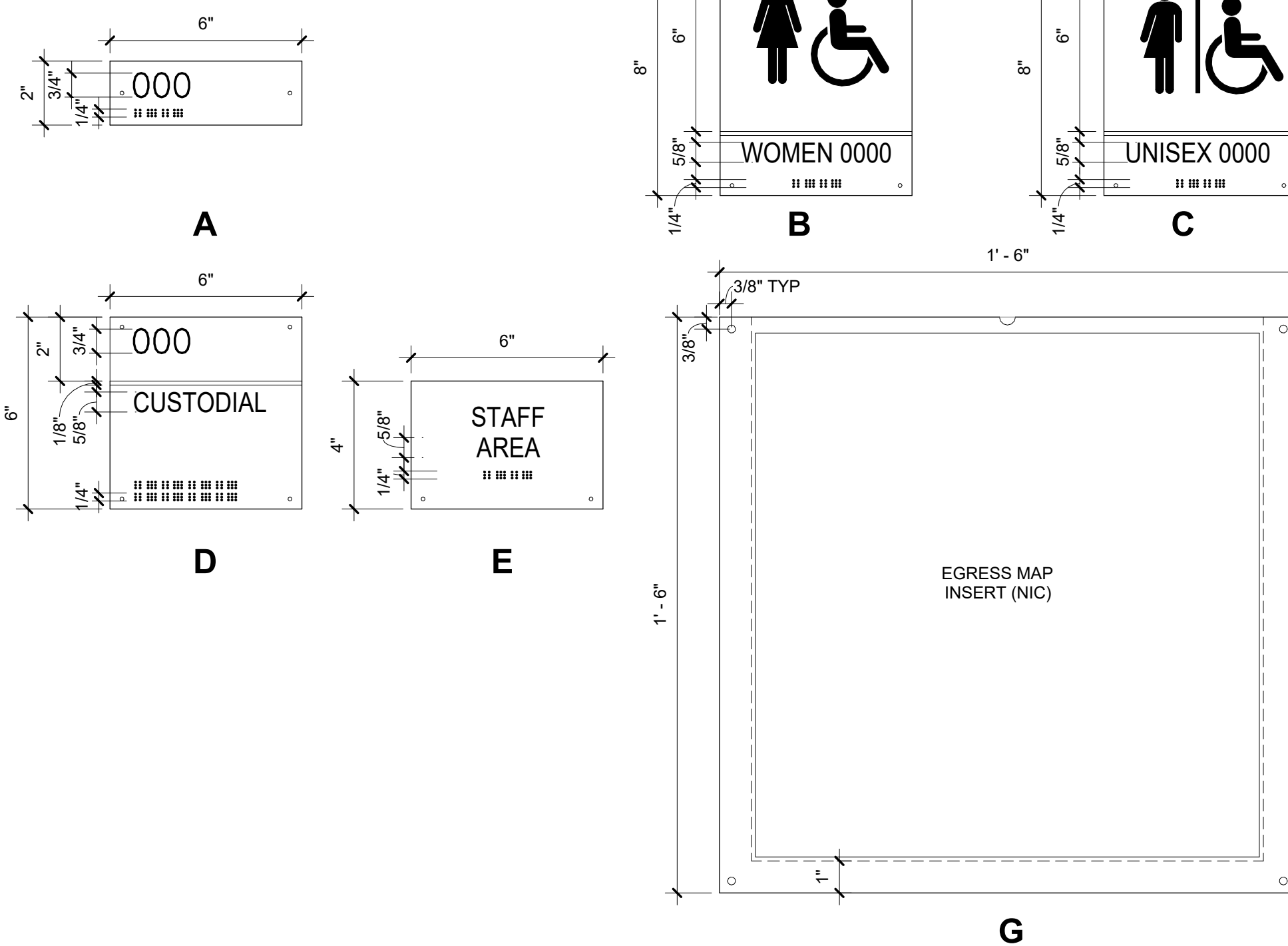
FINISHES GENERAL NOTES:

- SEE FLOOR PLANS FOR WALL TYPES.
- SEE INTERIOR ELEVATIONS AND DETAILS FOR LOCATION OF CASEWORK AND WALL FINISH SELECTIONS NOT SHOWN ON PLAN.
- PAINT COLORS PROVIDED IN MATERIAL LEGEND ARE FOR COLOR MATCH ONLY.
- INTERIOR FINISH ACCENTS INDICATED AT LOCATION BY SYMBOL, WITH LEADER DESIGNATION.
- FOR CEILING FINISH AND COLORS REFER TO REFLECTED CEILING PLANS.
- REFER TO SHEET A002 FOR MATERIAL LEGEND
- ALL WALLS TO BE PNT1, U.O.N.
- REFER TO INTERIOR ELEVATIONS FOR WALL TILE PLACEMENT AND TYPES.
- UNLESS SHOWN OTHERWISE, FINISH TAGS SHOWN APPLY TO ENTIRETY OF EACH ROOM.

FINISH PLAN SYMBOL LEGEND

	LUXURY VINYL TILE/PLANK		FLOORING
	CARPET		WALL BASE
	TILE		OTHER FINISH
	SEALED CONCRETE		FLOORING INSTALL DIRECTION
			SIGN TYPE LOCATION

SIGN TYPE ELEVATIONS



INTERIOR SIGNAGE NOTES:

- REFERENCE DOOR SCHEDULE FOR SIGNAGE LOCATIONS.
- TEXT SHOWN ON SIGNS IS SAMPLE TEXT ONLY.
- SEE SHEET A001 FOR MOUNTING HEIGHTS.
- SEE INTERIOR FINISHES PLANS FOR SIGNAGE LOCATIONS NOT NOTED IN DOOR SCHEDULE. ON FINISHES PLANS, "ST" DENOTES SIGN TYPE. FOR EXAMPLE, "ST-K" DENOTES SIGN TYPE K.



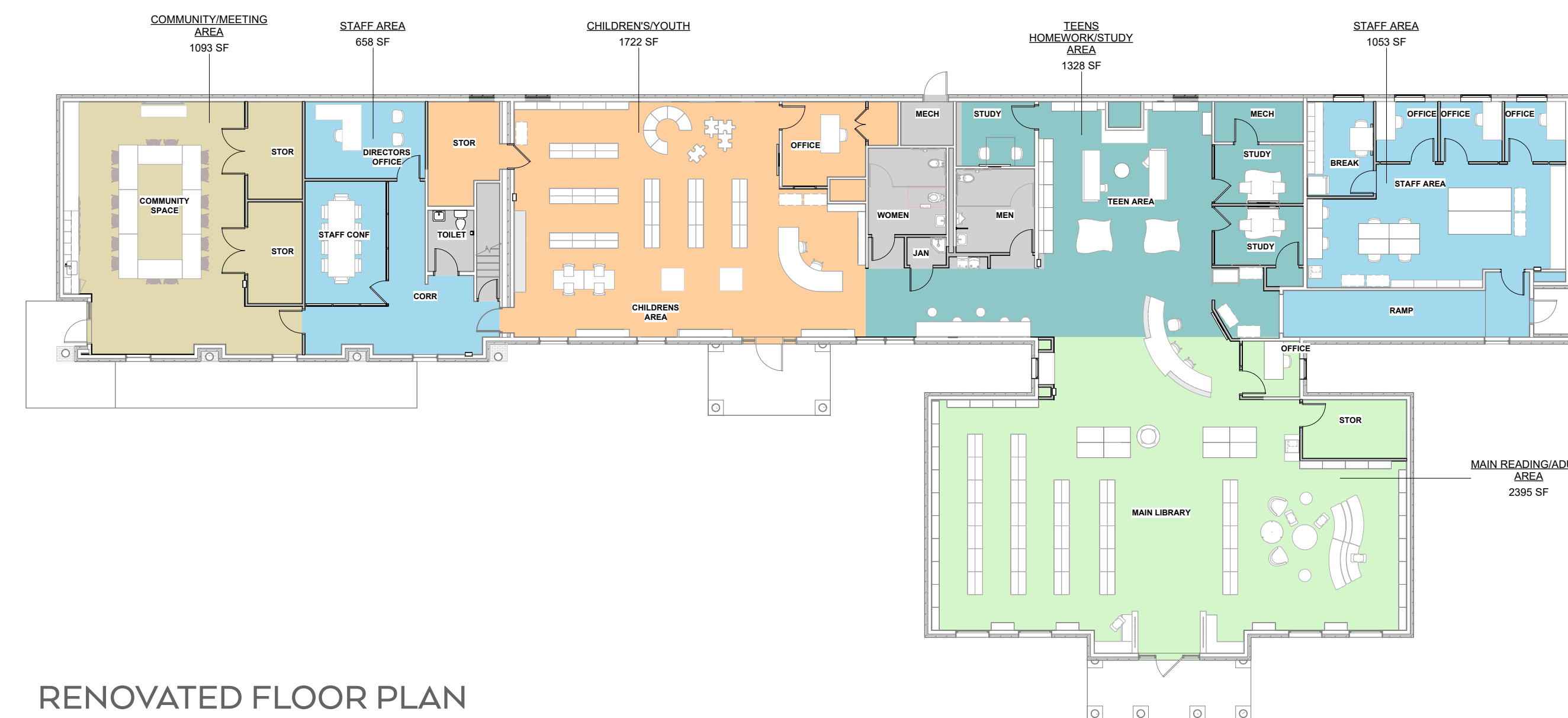
MAIN ENTRY



ENTRY READING NOOKS



MAIN CIRCULATION DESK



RENOVATED FLOOR PLAN

HOCUTT-ELLINGTON LIBRARY



STUDY AREA



LAPTOP BAR



CHILDREN'S CIRCULATION DESK



CHILDRENS AREA



COMMUNITY SPACE



DAVIS KANE
ARCHITECTS, PA

