

Project Manual for
Roof Replacement

Shelby County Library
7200 East Shelby Drive
Memphis, TN 38125

RFP 16-001-36

Owner
Shelby County Government
Shelby County, Tennessee



January 19, 2016

john pruetts architects

1869 madison avenue
memphis, tn 38104
901.721.9062 phone
901.721.9063 fax
pruettsarchitects@bellsouth.net

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SECTION 00 01 20
PROJECT DIRECTORY

OWNER:

Support Services
Shelby County Government
584 Adams Avenue
Memphis, TN 38103
901.545.4427 phone
901.545.4487 fax
diep.tran@shelbycountyttn.gov
ATTN: Diep Tran

ARCHITECT

John Pruett Architects
1869 Madison Avenue
Memphis, TN 38104
901.721.9062 phone
901.721.9063 fax
pruettarchitects@bellsouth.net
ATTN: John Pruett

SECTION 00 11 19
REQUEST FOR PROPOSAL

Attached herein:

Request for Proposal
RFP #16-001-36
Shelby County Government
Purchasing Department
160 N. Main, Suite 900
Memphis, TN 38103

Issued: January 21, 2016
Due: February 15, 2016, no later than 4:00 PM (Central Standard Time)

RFP # 16-001-36
ROOF REPLACEMENT AT
SHELBY COUNTY LIBRARY
7200 EAST SHELBY DRIVE
MEMPHIS, TENNESSEE 38125



Shelby County Tennessee

Mark Luttrell, Jr. Mayor

Request for Proposal

Shelby County Government

Purchasing Department

160 N. Main, Suite 900
Memphis, TN 38103

Issued: January 21, 2016

Due: February 15, 2016 no later than 4:00 P.M. (Central Standard Time)

RFP # 16-001-36

ROOF REPLACEMENT AT 7200 EAST SHELBY DRIVE, MEMPHIS TN. 38125

Shelby County Government is soliciting written proposals on a competitive basis for Construction Services for Roof Replacement, at 7200 East Shelby Dr., Memphis, TN 38125. Information regarding this RFP is located on the County's website at www.shelbycountyttn.gov. At the top of the home page, click on the links "Department," "P" for the Purchasing Department and "Bids" to locate the name of the above-described RFP. Copies of the project manual and drawing are posted at this location and can be downloaded at no cost to prospective bidders.

A **Voluntary** pre-bid conference will be held at 10:00 AM, Wednesday, February 3, 2016 at 7200 East Shelby Drive, A&B Conference Room.

The proposal, as submitted, should include all estimated costs related to the services requested by the RFP specifications. If selected, your proposal will be the basis for negotiating a contract with Shelby County Government. Your proposal must be received in the Shelby County Purchasing Department **no later than 4:00 p.m. on Monday, February 15, 2016**. Proposals should be addressed to:

**Tosha Davenport, Purchasing Specialist
Shelby County Government
Purchasing Department
160 N. Main St., Suite 900
Memphis, TN 38103**

The package containing an original (clearly identified as original) and four (4) copies of your proposal must be sealed and marked with the Proposer's name and "CONFIDENTIAL, "ROOF REPLACEMENT, 7200 EAST SHELBY DRIVE, MEMPHIS, TENNESSEE 38125 RFP # 16-001-36" noted on the outside.

Sincerely,

**Tosha Davenport, Purchasing Specialist
Shelby County Government
Purchasing Department**

Cc: Diep Tran, Support Services

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Note: Please make sure you pay close attention to Sections: I- IX. These sections will clearly outline what information is required to properly respond and prepare your RFP response.

Please download all of the additional information and attachments that accompany this RFP.

I. INTRODUCTION

Shelby County Government (the “County”), is seeking proposals from interested and qualified Contractors to submit proposals for Roof Replacement, 7200 East Shelby Drive, Memphis, Tennessee 38125. This Request for Proposal (“RFP”) is being released to invite interested and qualified firms to prepare and submit proposals in accordance with instructions provided where the successful candidate will be selected and invited to enter into a contractual relationship with Shelby County for the Services outlined in this RFP.

II. MINIMUM PROPOSERS REQUIREMENT

All Proposers must:

1. **Prime** and **LOSB** contractors must **apply** and **qualify** for an Equal Opportunity Compliance (EOC) certification number through our EOC Administration prior to submitting your response.
2. All bidders must submit a **Bid Bond** in the amount of 5% of their bid. This bond must be submitted with your bid.
3. The successful contractor must submit a performance/labor material bond, separate bonds each in the amount of 100% of the amount of the contract.
4. The successful contractor must submit a certificate of Insurance for the amount references in our specifications.
5. Have all appropriate licenses and certifications required in the State of Tennessee to perform the Services.
6. Meet all other requirements such as LOSB and performance requirements for Services in accordance with the provisions of this RFP.
7. Adhere to all Title VI requirements and provide proof/documentation.
8. A written statement of compliance to Title VI must be provided with your response.
9. Also, see page 27 for forms to be submitted with your bid.
10. Independent contractors (sole proprietors) must adhere to State of Tennessee Public Chapter No. 436, know as the “Tennessee Lawful Employment Act (effective date of 1/1/2012). Proof and documentation of employment eligibility must be included with the proposal.
11. Contractor Qualifications: The Prime Contractor will be a qualified roofing company that is approved, authorized, or licensed by the roofing system manufacturer to install manufacturer's product and that is eligible to receive manufacturer's warranty and can provide evidence of having a minimum of five years successful experience installing two-ply Modified Bitumen roofing systems. Submit a letter of certification from the manufacturer which certifies the roofing contractor is authorized to install the manufacturer's roofing system and lists the foreman for this project who has received training from the manufacturer along with the dates training was received.

Please Note: As a part of doing business with Shelby County, each individual, company, or organization is required to obtain an “Equal Opportunity Compliance” certification number prior to submitting your response.

Note: Because of the length of time required to receive an EOC number, vendors who submit an application prior to the bid due date, bid will be accepted pending EOC approval of their application.

You can access the online applications to receive the numbers indicated above at www.shelbycountyttn.gov. To obtain a vendor number and an EOC number, please follow the instructions below:

Vendor Number (Purchasing Department)

At the top of the home page, click on the links “Department”, “P” for the Purchasing Department and “Conducting Business with Shelby County”. The “Vendor Registration” link is at the bottom of the drop down box. Please download the application instructions and read thoroughly prior to accessing the application. *(Applications for a vendor number are accepted online only.)*

Equal Opportunity Compliance (EOC) Number (EOC Administration Office)

At the top of the home page, click on the links “Department”, “E” for the Equal Opportunity Compliance and “Contract Compliance Program”. The “Contract Compliance Packet” link is in the middle of the page. Please print the packet and mail or fax the completed packet to the EOC office. The mailing address is 160 N. Main Street, Suite 200, Memphis, TN 38103. The fax number is 901-222-1101.

If you have any questions regarding the application, you may contact Purchasing at (901)222-2250 or the EOC Administration at (901) 222-1100.

III. CORRESPONDENCE

**All correspondence, proposals, and questions concerning the RFP are to be submitted to:
Tosha Davenport, Purchasing Specialist
Shelby County Government
160 N. Main St. Suite 900
Memphis, TN. 38103**

Respondents requesting additional information or clarification are to contact Tosha Davenport in writing at tosha.davenport@shelbycountyttn.gov or at the address listed above. Questions should reference the section of the RFP to which the question pertains and all contact information for the person submitting the questions. ***IN ORDER TO PREVENT AN UNFAIR ADVANTAGE TO ANY RESPONDENT, VERBAL QUESTIONS WILL NOT BE ANSWERED. The deadline for submitting questions will be Monday, February 8, 2016 by 12:00 p.m. (CST).*** These guidelines for communication have been established to ensure a fair and equitable process for all respondents.

Note: Individual vendor questions will be answered by e-mail as received before the cut-off date. All written questions submitted by the deadline indicated above will be answered and posted on the County's website at www.shelbycountyttn.gov within forty eight (48) hours of the above cut-off date.

Please be aware that contact with any other personnel (other than the person clearly identified in this document) within Shelby County regarding this RFP may disqualify your company from further consideration.

IV. PROPOSAL SUBMISSION & DEADLINE

All proposals must be received at the address listed above no later than **Monday, February 15, 2016 @ 4:00 p.m. (CST)**. Facsimile or e-mailed proposals will not be accepted since they do not contain original signatures. Postmarks will not be accepted in lieu of actual receipt. Late or incomplete proposals may not be opened and considered.

V. PROPOSAL TIMELINE

Shelby County reserves the right to modify this timeline at any time. If the due date for proposals is changed, all prospective proposers shall be notified.

Request for Proposals Released	Thursday, January 21, 2016
Voluntary Pre-Bid Conference	10:00AM Wednesday, February 3, 2016
Proposal Due Date	4:00 PM, Monday, February 15, 2016
Notification of Award	March 2016
Services to Commence	Upon Execution of the Contract

The County may reproduce any of the proposer's proposal and supporting documents for internal use or for any other purpose required by law.

VI. PROPOSAL CONDITIONS

a. Contingencies

This RFP does not commit the County to award a contract. The County reserves the right to accept or reject any or all proposals if the County determines it is in the best interest of the County to do so. The County will notify all proposers, in writing, if the County rejects all proposals.

b. Modifications

The County reserves the right to issue addenda or amendments to this RFP.

c. Proposal Submission

To be considered, all proposals must be submitted in the manner set forth in this RFP. It is the proposer's responsibility to ensure that its proposals arrive on or before the specified time.

d. Incurred Costs

This RFP does not commit the County to pay any costs incurred in the preparation of a proposal in response to this RFP and Proposers agree that all costs incurred in developing this RFP are the Proposer's responsibility.

e. Final Authority

The final authority to award a contract rests solely with the Shelby County Purchasing Department.

f. Proposal Validity

Proposals submitted hereunder will be firm for at least ninety (90) calendar days from the due date unless otherwise qualified.

g. Disclosure of Proposal Contents

Proposer understands and acknowledges that the County is a governmental entity subject to the laws of the State of Tennessee and that any reports, data, or other information supplied to the County is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee. All proposals and other materials submitted become the property of Shelby County Government.

h. Non-Discrimination and Title VI

The contractor hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the contractor on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The contractor shall upon request show proof of such non-discrimination and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

Any recipient entity shall be subject to the requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and regulations promulgated pursuant thereto. It shall develop a Title VI implementation plan with participation by protected beneficiaries as may be required by such law or regulations. To the extent applicable, such plan shall include Title VI implementation plans sub recipients of federal funds through the entity. The contractor shall produce the plan upon request of Shelby County Government. Failure to provide same shall constitute a material breach of contract.

i.

**SHELBY COUNTY GOVERNMENT
LOCALLY OWNED SMALL BUSINESS (LOSB) PROGRAM
FOR CONSTRUCTION SERVICES**

**ROOF REPLACEMENT,
7200 EAST SHELBY DRIVE ,
MEMPHIS, TENNESSEE 38125**

General

Shelby County Government is committed to a policy of non-discrimination pursuant to the Equal Protection provisions of the United States Constitution. It is further the policy of Shelby County that it's purchasing and contracting practices encourage the use of Locally-Owned Small Businesses (LOSB's) in all solicitations. In furtherance of these policy objectives, Shelby County seeks to afford all citizens equal opportunities to do business on county contracts and to ensure that all bidders, proposers, or Contractors doing business with Shelby County provide to LOSB's, maximum practicable opportunities, commensurate with availability, price and capabilities required, to participate on contracts which are paid for, in whole or in part, with monetary appropriations from Shelby County.

Shelby County seeks to prevent discrimination against any person or business in pursuit of these opportunities on the basis of race or gender. Shelby County will conduct its contracting and purchasing programs so as to discourage any discrimination and will actively seek to resolve all claims of discrimination brought against Shelby County or any Contractors involved in such contracting and purchasing programs.

Shelby County has determined that **10%** of the contract shall be contracted with LOSB's vendors. For assistance and information regarding LOSB participation, Bidders shall contact:

Ms. Carolyn Griffin
Office of Equal Opportunity Compliance
Board of Commissioners of Shelby County
160 North Main Street, Suite 200
Memphis, Tennessee 38103
Phone: 901-222-1100
Fax: 901-222-1101
E-mail: carolyn.griffin@shelbycountyttn.gov

Definitions

The definitions used in this document are as follows:

1. **“Bidder”** or **“Proposer”** means any person, firm, partnership, association, or joint venture seeking to be awarded a contract or subcontract to provide goods, commodities or services.
2. **“Certification”** or **“Certified”** means a Business that is certified by Shelby County Government under the LOSB program.
3. **“Commercially useful function”** means being responsible for the management and performance of a distinct element of the total work.
4. **“Contractor”** shall mean any person or business enterprise that submits a bid or proposal to provide labor, goods, or services to Shelby County by contract for profit in the area of construction or construction-related activities; and, any person or firm who supplies or provides labor, goods, or services to Shelby County by contract for profit.
5. **“Efforts to Achieve LOSB Participation”** means that the Contractor will solicit LOSB Participation with respect to the procurement and will consider all sub-bids and quotations received from LOSB’s. When a subcontract is not awarded to the LOSB, the Contractor must document the reason(s) the award was not made and substantiate that documentation in writing pursuant to the provisions of this Program.
6. **“Locally Owned Small Business (LOS B)”** means a business whose home office is located in Shelby County, whose annual revenues do not exceed \$3,000,000 and who has been certified by Shelby County Office of Equal Opportunity Compliance.
7. **“Non-LOS B”** means a business, which is not certified as a LOSB.
8. **“Unavailable”** means either that: (1) there is no LOSB providing goods or services requested; or, (2) no LOSB submitted a bid.

Requirements and Compliance

All firms or entities seeking to become Contractors as outlined herein are required to make good faith efforts to achieve LOSB participation when submitting a proposal or bidding on Shelby County procurements. Bidders and proposers shall not discriminate on the basis of race or gender when soliciting bids in the performance of Shelby County’s procurements. Discrimination complaints brought to the attention of Shelby County Office of Equal Opportunity Compliance (or its designee) will be reviewed and investigated to the extent necessary to determine the validity of such complaints and what actions, if any, should be taken by Shelby County.

Policies and Procedures

Shelby County may adopt policies and procedures as necessary to carry out and implement its powers and duties with regard to the LOSB Program. It is the goal of Shelby County to encourage participation by LOSB’s and to adopt rules and regulations which achieve to the greatest extent possible a level of participation by LOSB’s taking into account the total number of all Contractors and suppliers. Therefore, Shelby County will review each procurement request to determine the maximum potential for utilization of LOSB’s. This review is based on the availability of qualified

LOSBS providing goods or services as it relates to the scope of the bid or procurement process. The following procedures may be utilized during the procurement process.

1. Pre-Bid Activity

a. Bid Language

Shelby County may insert language into each bid specification describing the LOSB Program to assure that all prospective bidders are aware of the requirements to make efforts to utilize LOSBs.

b. Notification

Shelby County may provide written notification to Contractors and LOSBs regarding: pre-bid conferences; technical assistance to LOSBs; LOSB Program procedures and required documentation; and, provide a list of LOSBs who have expressed an interest in competing for the bid or in performing as a subcontractor.

2. Contractor's Responsibilities

a. Efforts to Achieve LOSB Participation

All entities seeking to become Contractors are required to make efforts to achieve maximum LOSB participation, as outlined in this LOSB Program, when submitting a response to a bid or negotiated proposal in response to a Shelby County procurement opportunity. Such Efforts should be documented on **LOSB Form "A."**

b. Utilization

Contractors are required to utilize legitimate LOSBs in order to receive credit for the utilization of a LOSB. Contractors must document all LOSBs to be utilized, the percentage of utilization and the intended scope of work. Such information should be submitted on **LOSB Form "B."** This documentation must be submitted with the bid or negotiated proposal document.

c. Commercially Useful Functions

All LOSBs identified on **LOSB Form "C"** or **LOSB Form "D"** shall perform a Commercially Useful Function.

d. Unavailability

If a potential Contractor's efforts to obtain LOSB participation are unsuccessful due to the unavailability of a LOSB, the Contractor will submit a statement of unavailability. **LOSB Form "A."**

e. Pre-Work Conference

Any Contractor who is the successful bidder shall be required to attend a conference with Shelby County prior to beginning the work. The primary purpose of this conference is to review the project scope and review LOSB participation as outlined in **LOSB Form "B."** Shelby County will also review the Statement of Intent to Perform as a Subcontractor or Provide Supplies or Services as documented on **LOSB Form "C."**

f. Post-Award Change

Any Contractor who determines that a LOSB identified on **LOSB Form "B"** cannot perform shall request approval from Shelby County to

contract with an alternate subcontractor pursuant to this LOSB Program. Such request will be reviewed and approved only after adequate documentation for the proposed change is presented.

g. **LOS B Certification**

Each month the Contractor shall submit **LOS B Form “D”** certifying all payments made to LOSB’s.

3. LOS B Responsibilities

a. **Commercially Useful Function**

It is the responsibility of each LOSB providing subcontracted goods and/or services to submit **LOS B Form “C”** certifying that it is performing the work and that it is a Commercially Useful Function.

Written Agreement

Shelby County policies and procedures on LOSB participation are designed to create contractual relationships between Contractors and LOSB’s. Therefore, a Contractor may utilize the services of a LOSB in estimating and satisfying the scope of work, provided that a written contract/agreement is executed between the Contractor and the LOSB.

Certification

To ensure that the ownership and control over decision-making and day-to-day operations of a Certified LOSB is legitimate, Shelby County reserves the right to verify the ownership and control of each LOSB utilized.

Monitoring LOSB Utilization

Shelby County intends to monitor and enforce this LOSB Program. Shelby County reserves the right to conduct random audits of each of its Contractor’s LOSB’s. Shelby County reserves the right to reevaluate a LOSB’s certification at any time.

Efforts to Achieve LOSB Participation

The Contractor shall consider all bids and/or quotations received from LOSB’s. When a subcontract is not awarded by a Contractor to any of the competing LOSB’s, the Contractor must document the reason(s) the award was not made to the LOSB’s. It is the responsibility of the Contractor to prove that it employed Efforts to Achieve LOSB participation. Evidence supporting the Contractor’s Efforts must be documented on **LOS B Form “A,”** which must include, but is not limited to, the following:

1. Contractor must submit proof that it solicited LOSB participation through reasonable and available means including, but not limited to:
 - a. Written notices to LOSB’s who have the capability to perform the work of the contract or provide the service;
 - b. Direct mailing, electronic mailing, facsimile or telephone requests.

2. Contractor must submit proof that it provided interested LOSB's with adequate information about plans, requirements and specifications of the contract in a timely manner to assist them in responding to a solicitation.
3. Contractor must submit proof that it made Efforts to Achieve LOSB Participation including, but not limited to, proof that it made opportunities available to LOSB suppliers and identified opportunities commensurate with opportunities made available and identified to Non LOSB's. Such proof will include the names of businesses, contact person(s), addresses, telephone numbers, and, a description of the specifications for the work selected for subcontracting.
4. Contractor must submit proof that it allowed LOSB's the opportunity to review bid specifications, blue prints and all other bid related items at no charge. The Contractor must allow sufficient time for review prior to the bid deadline.
5. Contractor must submit proof that it made Efforts to Achieve LOSB Participation by not rejecting a LOSB as unqualified or unacceptable without sound reasons based on a thorough investigation of their capabilities. Contractor must submit proof of the basis for rejecting any LOSB deemed unqualified or unacceptable by the Contractor. The Contractor will not impose unrealistic conditions of performance on LOSB's seeking subcontracting opportunities.

The Contractor must fully cooperate with Shelby County in its post-contract award LOSB Program audit and compliance efforts.

Substitution of LOSB's after Contract Award

In order to make a substitution of a LOSB, a Contractor must make a request to Shelby County. This request must be submitted in writing to Shelby County. Shelby County reserves the right to approve any substitution of a LOSB. The Contractor has the responsibility to provide Shelby County with a reasonable basis for the substitution. If the Contractor desires to substitute the LOSB with a Non-LOSB, then the Contractor must comply with the Effort to Achieve LOSB Participation provisions set forth herein.

Noncompliance with LOSB Program

Any of the following reasons, individually or collectively, may result in suspension from bidding, prohibition from contracting, or cancellation of contracts:

1. The failure to perform according to contract provisions relating to this LOSB Program;
2. Violation of, circumvention of, or failure to comply with the LOSB Program; and/or,
3. Other reasons deemed appropriate by Shelby County.

Questions and Information

Questions regarding this LOSB Program and requests for information should be directed to:

Ms. Carolyn Griffin
Office of Equal Opportunity Compliance

Board of Commissioners of Shelby County
160 North Main Street, Suite 200
Memphis, Tennessee 38103
Phone: 901-222-1100
Fax: 901-222-1101
E-mail: carolyn.griffin@shelbycountyttn.gov

Construction

This LOSB Program is consistent with Shelby County Policies and Procedures. Wherever conflicts exist, the provision in the Shelby County Policies and Procedures will prevail.

LOSB Program Forms Description

- **LOSB Form A -- Certification of Efforts**

Contractors are required to submit **LOSB Form "A"** with proposals as evidence and documentation of efforts that have been made to contact LOSB's for participation as subcontractors, joint venture partners, or suppliers of goods and services. Contractors are required to contact LOSB's and solicit quotes for goods and services. All responses to the Contractor's solicitation should be recorded and reported.

- **LOSB Form B -- LOSB Utilization Plan**

A Contractor is required to submit **LOSB Form "B"** with its Proposal in order to identify all LOSB's they propose to utilize in providing the goods and services included in the Proposal. Contractors may only include a proposed provider of goods or services on **LOSB Form "B,"** if the entity is a legitimate LOSB. Additionally, if such entity will provide services, Contractors may only list LOSB's on **LOSB Form "B"** if the entity will perform a Commercially Useful Function. The Successful Contractor will be required to finalize and submit **LOSB Form "B"** prior to award of a contract. **LOSB Form "B"** will be incorporated into the contract and will become a contractual obligation of the Successful Contractor. **LOSB Form "B"** shall not be changed or altered after award of a contract without approval from Shelby County. The Contractor is required to provide written notice describing the reasons for any proposed change to Shelby County and to obtain approval from Shelby County of any changes to **LOSB Form "B."**

- **LOSB Form C --Statement of Intent to Perform as a Subcontractor or Provide Supplies or Services**

Contractors are required to have each subcontracted LOSB providing services complete **LOSB Form "C"** certifying that it is performing the work and that it is a Commercially Useful Function.

- **LOSB Form D -- Statement of Payments to LOSB's**

Contractors are required to record and maintain information regarding the utilization of LOSB's and all other information during the performance of awarded contracts. This information shall be recorded and maintained on **LOS Form "D."** The form is required to be submitted to Shelby County each month. **LOS Form "D"** must be completed in its entirety with information regarding the types of goods purchased from LOSB's or the types of services rendered by LOSB's and dollars amounts paid for their goods or services.

**Shelby County
 LOSB Program**

LOS B FORM A

CERTIFICATION OF EFFORTS TO ACHIEVE LOSB PARTICIPATION

(To Be Submitted with the Bid/Proposal)

Company Name: _____

Bid No.: _____

I certify that the following efforts were made to achieve LOSB participation:

YES

NO

A	Provided written notices to LOSB's who have the capability to perform the work of the contract or provide the service		
B	Direct mailing, electronic mailing, facsimile or telephone requests		
C	Provided interested LOSB's with adequate information about plans, requirements and specifications of the contract in a timely manner to assist them in responding to a solicitation		
D	Allowed LOSB's the opportunity to review bid specifications, blue prints and all other bid/RFP related items at no charge, and allowed sufficient time for review prior to the bid deadline		
E	Acted in good faith with interested LOSB's, and did not reject LOSB's as unqualified or unacceptable without sound reasons based on a thorough investigation of their capabilities		
F	Did not impose unrealistic conditions of performance on LOSB's seeking subcontracting opportunities		

Additionally, I contacted the referenced LOSB's and requested a bid/proposal. The responses I received were as follows:

Name and Address of LOSB	Type of Work And Contract Items, Supplies or Services to be Performed	Response	Reason for Not Accepting Bid/Proposal

(If additional space is required, this form may be duplicated)

If applicable, please complete the following:

I hereby certify that LOSB's were "Unavailable" as defined in the LOSB Program to submit bids to provide goods and services for this RFP/Bid's purpose.

Reasons for the "Unavailability":

Submitted by:

Authorized Representative Signature

Title

Date

**Shelby County
LOS B Program**

LOS B FORM B

**LOS B UTILIZATION PLAN
(To Be Submitted with the Bid/Proposal)**

Company: _____

Bid No.: _____

I, _____, do certify that on the following procurement opportunity,
(Contractor)

_____, the following LOS B's will be utilized as sub-contractors,
suppliers,

(Opportunity)
or to provide professional services:

Name	Description of Work	Contract Value	LOS B Number

(If additional space is needed this form may be duplicated)

TOTAL CONTRACT VALUE: _____

TOTAL % OF LOS B PARTICIPATION: _____

The successful bidder/proposer is required to finalize and submit this form prior to award of a contract. Joint Venture Agreements, partnering agreements and all pertinent information must be presented prior to contract award. This information will be incorporated into the contract and will become a contractual obligation of the successful bidder/proposer. The finalized LOS B Form B shall not be changed or altered after award of a contract without approval from Shelby County. The successful bidder/proposer is required to provide written notice describing the reasons for the change to Shelby County to obtain approval of any changes to LOS B Form B.

Submitted by:

Authorized Representative Signature

Title

Date

**Shelby County
LOS B Program
LOS B FORM C**

**STATEMENT OF INTENT TO PERFORM AS A SUBCONTRACTOR OR
PROVIDE SUPPLIES OR SERVICES
(To Be Submitted Prior to Contract Award)**

Company Name: _____
Bid No.: _____

I, _____, intend to provide supplies or services in connection with the
(Subcontractor/Provider)
above **bid/proposal** request as a LOSB.

I am prepared to perform a “**Commercially Useful Function**” in connection with the above project.

The following are the work items to be performed:

at the following price: \$ _____.

If applicable, please complete the following:

I have or will enter into a formal agreement with _____ for the above-
(Company)
described scope of work, supplies, or services conditioned upon the execution of a contract
with Shelby County.

I hereby certify that this statement is true and correct:

Business Information:	Submitted by:
Business: _____	_____
Authorized Representative (Print)	_____
Address: _____	_____
Title _____	_____
Authorized Representative's Signature	_____
Phone: _____	_____
Date _____	_____
Facsimile: _____	_____

**Shelby County
 LOSB Program**

LOS B FORM D

STATEMENT OF PAYMENTS TO LOSB'S
 (To Be Submitted Monthly and with Final Payment Request)

Company Name: _____
Name/Contract No.: _____
Payment Request Number: _____

Name of Firm	Description of work	Total Amount Due This Month	Total Dollars Paid To Date	% of Contract Completed	Start Date of Contract	End Date of Contract

(If additional space is needed this form may be duplicated)

I hereby certify that this statement is true and that above payments have been made.

Business Information: Business: _____ Authorized Representative (Print) Address: _____ Title _____ Authorized Representative's Signature Phone: _____ Date Facsimile: _____	Submitted by: _____ _____ _____ _____
--	---

**LOCALLY OWNED SMALL BUSINESS PURCHASING PROGRAM RULES
 AND REGULATIONS:**

(i) The Administrator of Purchasing in conjunction with the Administrator

of EOC shall identify certain goods and services required by the County to be set aside for special purchasing procedures for locally owned small businesses.

(ii) Only certified locally owned small businesses will be allowed to submit competitive bids on the goods or services identified under paragraph (i) above.

(iii) The Administrator of Purchasing shall, in conjunction with the Administrator of EOC, annually review the Shelby County Capital Improvement Program to determine those projects with a construction cost of \$250,000 or more. Contracts amounting to at least ten (10%) of the construction costs of such project shall be awarded to locally owned small businesses as defined herein, except as set forth in sub-paragraph (vi) of this section, either as part of the conditions of the solicitation for general contractors bidding on these projects, or as separate bids issued by the County for subcontracts that may be assigned to general contractors.

(iv) After adhering to all other bidding and purchasing requirements of the County, not inconsistent with this part, if no bids are received from locally owned small businesses, then the County may solicit bids for the goods or services from all other sources.

(v) On all purchases and/or contracts entered into by the County, the Purchasing Administrator or his or her designee shall have the right to negotiate with any supplier of goods or services to the County for the inclusion of locally owned small business subcontractors and/or suppliers in the contract award.

(vi) Failure by a supplier or contractor to include locally owned small business sub-contractors or suppliers in its bid or contract may be grounds for rejection of said bid or contract unless the supplier or contractor can show documented evidence of good cause why none were included.

(vii) Any locally owned small business awarded a contract or purchase order under this section shall not sublet, subcontract, or assign any work or services awarded to it without the prior written consent of the Mayor or the Purchasing Administrator.

(viii) As to those purchases below the requirement for a formal bid solicitation (currently, under \$15,000) and not included in the locally owned small business set aside, the Administrator of Purchasing shall determine if any locally owned small business offers that product or service. If so, at least one such eligible locally owned small business should be included in the vendors contacted for an opportunity to bid, and the Administrator of Purchasing may, at his discretion, designate in a purchase order the purchase of such goods and services from the identified locally owned

small business.

(ix) In those situations where a locally owned small business as defined herein, engages in open competitive bidding for County contracts, the Administrator of Purchasing shall provide for a preference for the locally owned small business where responsibility and quality are equal. Said preferences shall not exceed five percent (5%) of the lowest possible bidder meeting specifications. The preference shall be applied on a sliding scale in the following manner:

- a. A preference of up to five percent (5%) shall be allowed for contracts up to \$500,000.00;
- b. A preference of up to three and five-tenths percent (3.5%) shall be allowed for contracts up to \$750,000.00;
- c. A preference of two and one-half percent (2.5%) shall be allowed for contracts up to \$1,000,000.00;
- d. A preference of two percent (2%) shall be allowed for contracts that exceed \$1,000,000.00.

(x) For construction contracts over \$2,000,000.00, the Administrator of Purchasing shall provide for a preference of two percent (2%) to general contractors meeting the requirements of Section 1, Subparagraph B, if fifty percent (50%) or more of the total work comprising the bid has been or will be awarded to certified locally owned small businesses. The fifty percent subcontracting threshold must be met prior to contract execution.

(xi) The Administrator of Purchasing may divide a single bid package for any purchase of goods and services into two or more smaller bid packages in any case that the Administrator of Purchasing reasonably believes that the smaller bid packages will result in a greater number of bids by locally owned small businesses.

(xii) The Administrator of Purchasing, upon approval of the County Mayor, may establish special insurance and bonding requirements for certified locally owned small businesses so long as they are not in conflict with the laws of the State of Tennessee.

(xiii) The Administrator of Purchasing, with the approval of the County Mayor, shall adopt and promulgate, and may from time to time, amend rules and regulations not inconsistent with the provisions of this ordinance, governing the purchase of goods and services from locally owned small business concerns to effectuate and implement the Locally Owned Small Business Purchasing Program within the intent of this ordinance.

(xiv) The Administrator of EOC shall, in conjunction with the

Administrator of Purchasing, provide a written quarterly report to the Mayor and Board of Commissioners which shall include a summary of the purchases selected for this program, a listing of the contracts awarded to locally owned small businesses for the period, and the dollar amounts of each such contract, and the percentage which such contracts bear to the total amount of purchases for the period.

j.

DRUG-FREE WORKPLACE AFFIDAVIT

STATE OF _____

COUNTY OF _____

The undersigned, principal officer of _____, an employer of five (5) or i employees contracting with _____ County government to provide construction services states under oath as follows:

1. The undersigned is a principal officer of _____ (hereinafter referred to as the “Company”), and is duly authorized to execute this Affidavit on behalf of the Company.
2. The Company submits this Affidavit pursuant to T.C.A. § 50-9-113, which requires each employer with no less than five (5) employees receiving pay who contracts with the state or any local government to provide construction services to submit an affidavit stating that such employer has a drug-free workplace program that complies with Title 50, Chapter 9, of the *Tennessee Code Annotated*.
3. The Company is in compliance with T.C.A.~ 50-9-113. Further affiant saith not.

Principal Officer

STATE OF _____

COUNTY OF _____

Before me personally appeared with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who acknowledged that such person executed the foregoing affidavit for the purposes therein contained.

Witness my hand and seal at office this _____ day of _____ 20

Notary Public

My commission expires:

k.

GRATUITY DISCLOSURE FORM

Shelby County Ethics Commission

INSTRUCTIONS: This form is for all persons receiving any Shelby County Government contract, land use approval or financial grant money to report any gratuity that has been given, directly or indirectly, to any elected official, employee or appointee (including their spouses and immediate family members) who is involved in the decision regarding the contract, land use approval, or financial grant of money.

1. NAME

2. DATE OF GRATUITY

3. NATURE AND PURPOSE OF THE GRATUITY

4. NAME OF THE OFFICIAL, EMPLOYEE, APPOINTEE, OR FAMILY MEMBER WHO RECEIVED THE GRATUITY

5. NAME OF THE PERSON OR ENTITY THAT PROVIDED THE GRATUITY

6. ADDRESS OF THE PERSON OR ENTITY THAT PROVIDED THE GRATUITY

7. DESCRIPTION OF THE GRATUITY

8. COST OF THE GRATUITY (If cost is unknown and not reasonably discernible by the person giving the gratuity, then the person giving the gratuity shall report a good faith estimate of the cost of the gratuity.)

9. The information contained in this Gratuity Disclosure Form, and any supporting documentation or materials referenced herein or submitted herewith, is true and correct to the best of my knowledge, information and belief and affirm that I have not given, directly or indirectly, any gratuity to any elected official, employee or appointee (including spouse and immediate family members) that has not been disclosed and I affirm that I have not violated the provisions of the Shelby County Government Code of Ethics.

Signature

Date

Print Name

A copy of your completed form will be placed on the Shelby County Internet website.

I.

FORMS TO BE SUBMITTED

LOSB FORM A: MUST BE COMPLETED AND SUBMITTED IN YOUR BID ENVELOPE

LOSB FORM B: MUST BE COMPLETED, SUBMITTED WITH YOUR BID DOCUMENTING ALL LOSB'S TO BE UTILIZED, THE PERCENTAGE OF UTILIZATION AND THE INTENDED SCOPE OF THE WORK.

DRUG FREE WORKPLACE AFFIDAVIT - MUST BE COMPLETED AND SUBMITTED WITH YOUR BID.

GRATUITY DISCLOSURE FORM - MUST BE COMPLETED AND SUBMITTED WITH YOUR BID.

BID BOND- ALL BIDS MUST BE ACCOMPANIED BY A BANK CERTIFIED CHECK OF BANK DRAFT, LETTER OF CREDIT ISSUED BY ANY NATIONAL BANK OR APPROVED BID BOND FOR NOT LESS THAN 5% (PERCENT) OF THE AMOUNT OF THE BID. ALL PROPOSAL GUARANTEES SHALL BE MADE OUT TO THE COUNTY OF SHELBY.

NOTE: LOSB FORM C AND D WILL BE SUBMITTED BY THE SUCCESSFUL CONTRACTOR.

LOSB FORM C- MUST BE COMPLETED AND SUBMITTED BY EACH LOSB PROVIDING SUBCONTRACTED GOODS AND OR SERVICES CERTIFYING THAT THEY ARE PERFORMING THE WORK AND THAT IT IS A COMMERCIALY USEFUL FUNCTION.

LOSB FORM D-MUST BE COMPLETED AND SUBMITTED BY THE SUCCESSFUL CONTRACTOR EACH MONTH CERTIFYING ALL PAYMENTS MADE TO LOSB'S.

FAILURE TO SUBMIT THE REQUIRED FORMS MAY RESULT IN YOUR BID BEING REJECTED AS BEING IN NON-COMPLIANCE WITH BID REQUIREMENTS.

VII. GENERAL REQUIREMENTS

- a. Proposers are advised that the lowest cost proposal will not necessarily be awarded the contract, as the selection will be based upon qualification criteria as deemed by the County and as determined by the selection committee and the County Mayor.

- b. **Scope of Work**

The County wishes to engage in a contractual relationship with the lowest responsive Contractor selected through the bid process.

- c. **Project Time Frame**

The Provider must be prepared to begin immediately upon receipt of a Notice to Proceed.

- d. **Reservation of Rights**

The County reserves the right, for any reason to accept or reject any one more proposals, to negotiate the term and specifications for the services provided, to modify any part of the SEALED BID, or to issue a new SEALED BID.

VIII. AWARD OF CONTRACT

- a. **Selection Criteria**

Contract(s) will be awarded based on the lowest responsive proposals received. The contents of the proposal of the successful Bidders will become contractual obligations and failure to accept these obligations in a contractual agreement may result in cancellation of the award.

- b. **Additional Information and References**

Any additional information that would be helpful to the County evaluating your proposal, including a list of current and former clients with a similar profile to Shelby County should be submitted.

IX. NOTICE TO BIDDERS

Time and Place of Opening of Bids:

REQUEST FOR PROPOSALS for the improvements described herein will be received at **THE OFFICE OF THE SHELBY COUNTY ADMINISTRATOR OF PURCHASING, ROOM 900, SHELBY COUNTY ADMINISTRATION BUILDING, 160 NORTH MAIN, MEMPHIS, TENNESSEE 38103, at 4:00 PM, MONDAY , FEBRUARY 15, 2016.**

NOTE: There will not be a public bid opening for this project.

Description of Work:

- a. The proposed work is officially known as: **Roof Replacement, 7200 East Shelby Drive, Memphis, Tennessee 381255.**

Pre-Bid Meeting:

Bidders are encouraged to attend a **Voluntary** pre-bid meeting to be held on Wednesday, **February 3, 2016 at 10:00 AM, at 7200 East Shelby Drive, A&B Conference Room.**

Instruction to Bidders:

- (a) The RFP can be downloaded from The Shelby county Government website locates at www.shelbycountyttn.gov and click the link “Department” at the top, then P for the Purchasing Department, then click on the link “Bids.”
- (b) All bids must be accompanied by a bank cashier’s check or bank draft, letter of credit issued by any national bank or certificate of deposit therein, duly assigned, or certified check or approved bid bond for not less than five (5) percent of the amount of the bid. All proposal guarantees shall be made out to the COUNTY OF SHELBY.
- (c) All bidders must be licensed by the Tennessee State Board of Licensing
- (d) General Contractors Evidence of this license must appear on the title page of the Proposal in the space provided, and also on the exterior of the sealed envelope. The envelope enclosing each bid must show the Contractor’s name, license number, expiration date thereof, and license classification of the contractor(s) bidding for the prime contract and for the masonry, electrical, plumbing, heating, ventilation, and air conditioning subcontracts in accordance with TCA 62-6-119. Lacking all of this information, the bid shall be rejected and returned to the bidder unopened.

EOC Requirements:

As a condition precedent to bidding, bidders shall have received a current “Equal Opportunity Compliance Eligibility Number” which must be attached to each bid submission. To receive an E.O.C. Eligibility Number, specific information must be received by the E.O.C. Department at least 48 hours prior to the bid opening. To verify your E.O.C. Number or to receive information for obtaining a number, contact the E.O.C. Department, **901-222-1100**.

Use of Locally Owned Small Business (LOSB) participation on County projects is mandatory.

Bidders are encouraged to contact County-certified LOSB firms from the listing that can be obtained from Shelby County EOC department. Bidders may also provide the names of firms they believe would qualify as LOSB firms, by notifying the E.O.C. Department and filing the required forms at least five (5) working days prior to the bid opening

A Locally Owned Small Business is defined as a sole proprietorship, corporation, partnership, or joint venture located within Shelby County and at least 51% owned, operated and managed by a Shelby County resident and having an average annual sale of \$5,000,000.00 or less over the past three (3) years.

Rejection of Bids:

The **COUNTY OF SHELBY** reserves the right to reject any and all proposals and to waive technicalities in any proposal.

BY ORDER OF: CLIFTON DAVIS

**PURCHASING
ADMINISTRATOR
SHELBY COUNTY
GOVERNMENT**

_____, 2016

DOCUMENT 00 41 13
BID FORM – STIPULATED SUM

To: Administrator of Purchasing
Shelby County Government
Suite 550
160 North Main St.
Memphis, TN 38103

Project: Roof Replacement, Shelby County Library
7200 East Shelby Drive, Memphis, TN 38125

Date: _____
Submitted by: _____
(full name)

(full address)

1. OFFER

BASE BID - All Work not including the Additive Alternates listed on this bid form and not including the Contingency Allowance as indicated in the bid documents:

(\$ _____) State amount in both words and figures.

CONTINGENCY ALLOWANCE Ten percent (10%) of the Base Bid to the nearest whole dollar:

(\$ _____) State amount in both words and figures.

TOTAL BASE BID AMOUNT (Base Bid plus Contingency Allowance)

Having examined the Place of The Work and all matters referred to in the Instructions to Bidders and the Contract Documents prepared by John Pruet Architects for the above mentioned project, we, the undersigned, hereby offer to enter into a Contract to perform the Work for the Sum of:

_____ dollars,

(\$ _____) in lawful money of the United States of America.
We have included the security Bid Bond as required by the Notice to Bidders. All applicable federal taxes are included and State of Tennessee and City of Memphis taxes are included in the Bid Sum.

ADDITIVE ALTERNATE BID ITEMS:
There are no additive alternate bid items.

2. ACCEPTANCE

This offer shall be open to acceptance and is irrevocable for ninety days from the bid closing date.

If this bid is accepted by the Owner within the time period stated above, we will:

- Execute the Agreement within seven days of receipt of Notice of Award.
- Furnish the required bonds within seven days of receipt of Notice of Award. In the form described in Supplementary Conditions.
- Commence work within seven days after written Notice to Proceed.

If this bid is accepted within the time stated, and we fail to commence the Work or we fail to provide the required bonds, the security deposit shall be forfeited as damages to the Owner by reason of our failure, limited in amount to the lesser of the face value of the security deposit or the difference between this bid and the bid upon which a Contract is signed.

In the event our bid is not accepted within the time stated above, the required security deposit will be returned to the undersigned, in accordance with the provisions of the Instructions to Bidders; unless a mutually satisfactory arrangement is made for its retention and validity for an extended period of time.

3. CONTRACT TIME

If this Bid is accepted, we will: Complete the Work in ONE HUNDRED FIFTY (150) calendar days from Notice to Proceed. CONTRACTOR agrees to provide COUNTY an amount equal to 500 (\$) Dollars per day for liquidated damages for each consecutive calendar day required for the completion of the contract beyond the time stipulated.

4. ADDENDA

The following Addenda have been received. The modifications to the Bid Documents noted below have been considered and all costs are included in the Bid Sum.

Addendum # _____ Dated _____
Addendum # _____ Dated _____
Addendum # _____ Dated _____
Addendum # _____ Dated _____
Addendum # _____ Dated _____

5. APPENDICES

The following documents are attached to and made a condition of the Bid:

LOSB Subcontractor & Supplier List
Drug-Free Workplace Affidavit
Bid security in form of Bid Bond

6. BID FORM SIGNATURES

The Corporate Seal of

(Bidder - print the full name of your firm)

was hereunto affixed in the presence of:

(Authorized signing officer Title)
(Seal)

(Authorized signing officer Title)
(Seal)

If the Bid is a joint venture or partnership, add additional forms of execution for each member of the jointventure in the appropriate form or forms as above.

END OF DOCUMENT

SECTION 00 50 00
CONTRACTING FORMS AND SUPPLEMENTS

Attached herein:

- BID BOND
- PERFORMANCE BOND
- LABOR AND MATERIAL PAYMENT BOND
- SHELBY COUNTY GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION
- DRAFT COUNTY/CONTRACTOR AGREEMENT

THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document A310

Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we

(Here insert full name and address or legal title of Contractor>

as Principal, hereinafter called the Principal, and

(Here insert full name and address or legal title of Surety>

a corporation duly organized under the laws of the State of
as Surety, hereinafter called the Surety, are held and firmly bound unto

(Here insert full name and address or legal title of Owner)

as Obligee, hereinafter called the Obligee, in the sum of

Dollars (\$ _____),

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for

(Here insert full name, address and description of project)

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this

day of

19

(Principal)

(Seal)

(Witness)

(Title)
(Surety)

(Seal)

(Witness)

(Title)

THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document A311

Performance Bond



KNOW ALL MEN BY THESE PRESENTS: that

(Here insert full name and address or legal title of Contractor)

as Principal, hereinafter called Contractor, and,

(Here insert full name and address or legal title of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto

(Here insert full name and address or legal title of Owner)

as Obligee, hereinafter called Owner, in the amount of

Dollars (\$ _____),

for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Contractor has by written agreement dated _____
(Here insert full name, address and description of project)

19 _____ entered into a contract with Owner for

in accordance with Drawings and Specifications prepared by

(Here insert full name and address or legal title of Architect)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

PERFORMANCE BOND

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

1) Complete the Contract in accordance with its terms and conditions, or

2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as Work progresses (even though there should be a default or a succession of

defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

Signed and sealed this

day of

20

THE AMERICAN INSTITUTE OF ARCHITECTS



AIA
Document
A311

Labor and Material Payment Bond

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE OWNER CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT

KNOW ALL MEN BY THESE PRESENTS: that

(Here insert full name and address or legal title or contractor)

as Principal, hereinafter called Principal, and,

(Here insert full name and address or legal title of Surety)

as Surety, hereinafter called Surety, are held and firmly bound unto

(Here insert full name and address or legal title of Owner)

as Obligee, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the

amount of

(Here insert a sum equal to at least one-half of the contract price)

Dollars (\$

for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Principal has by written agreement dated

19

entered into a contract with Owner for

(Here insert full name, address and description of project)

in accordance with Drawings and Specifications prepared by

(Here insert full name and address or legal title of Architect)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

LABOR AND MATERIAL PAYMENT BOND

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the

AIA DOCUMENT A311 · PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND · AIA ®

FEBRUARY 1970 ED. · THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 N.Y. AVE., NW., WASHINGTON, D. C. 20006

performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimants work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:

a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: the Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial

Signed and sealed this

- (Winc-s)
(Vvilnss)

day of

accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

b) After the expiration of one (1) year following the date on which Principal ceased Work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof, is situated, or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

<i>(Principal)</i>	
<i>(Tilt)</i>	
<i>(Surt'ly)</i>	(Seal)

**SHELBY COUNTY GENERAL CONDITIONS OF THE
CONTRACT FOR CONSTRUCTION**

GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

ARTICLE I CONTRACT DOCUMENTS

1.1 Definitions

1.1.1 The Contract Documents

The Contract Documents consist of the Owner-Contractor Agreement, the conditions of the Contract (General, Supplementary and other conditions), the Drawings, the Specifications, and all Addenda issued prior to and all modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a written interpretation issued by the Architect pursuant to Subparagraph 2.2.8, or (4) a written order for a minor change in the Work issued by the Architect pursuant to Paragraph 12.3. The Contract Documents include Bidding Documents such as the Advertisement or invitation to Bid, the Instructions to Bidders, sample forms, the Contractor's Bid, or portions of Addenda relating to any of these, and other documents specifically enumerated in the Owner-Contractor Agreement.

1.1.2 The Contract

The Contract Documents form the Contract for Construction. This Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification as defined in Subparagraph 1.1.1. The Contract Documents shall not be construed to create any contractual relationship of any kind between the Architect and the Contractor, but the Architect shall be entitled to performance of obligations intended for his benefit, and to enforcement thereof. Nothing contained in the Contract Documents shall create any contractual relationship between the Owner or the Architect or any Subcontractor or sub-subcontractor.

1.1.3 The Work

The Work comprises the completed construction required by the contract Documents and includes all labor necessary to produce such construction, and all materials and equipment incorporated or to be incorporated in such construction.

Initial _____

1.1.4 The Project

The Project is the total construction of which the Work performed under these Contract Documents may be the whole or a part.

1.2 Execution Correlation and Intent

1.2.1 The Contract Documents shall be signed in not less than four originals by the Owner and Contractor. If either Owner or Contractor or both do not sign the Conditions of the Contract, Drawings, Specifications, or any of the other Contract Documents, the Architect shall identify such Documents.

1.2.2 By executing the Contract, the Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Work not specifically set forth in the Contract Documents will not be required unless it is consistent with work that is specifically set forth in the Contract Documents or is reasonably inferable from the Contract Documents as being necessary to produce the intended results. Words and abbreviations, which have well-known technical or trade meanings, are used in the Contract Documents in accordance with such recognized meanings.

1.2.4 The organization of the Specifications into divisions, sections, and articles, and the arrangement of Drawings shall not control the Contractor in dividing the Work among Sub-contractors or in establishing the extent of Work to be performed by any trade.

1.3 Ownership and Use of Documents

1.3.1 All Drawings, Specifications, and copies thereof furnished by the Architect are the property of the Owner. They are to be used only with respect to this Project and are not to be used on any other project. With the exception of one contract set for each party to the Contract, such documents are to be returned or suitably accounted for to the Architect on request at the completion of the Work. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's common law copyright or other reserved rights. The Architect will furnish, free of charge, to

Initial _____

the Contractor sufficient sets of Contract Documents to execute the Work not to exceed ten (10). The Contractor may purchase additional sets by paying reproduction costs.

ARTICLE II ARCHITECT

2.1 Definition

2.1.1 The Architect is the person lawfully licensed to practice Architecture, or any entity lawfully practicing Architecting identified as such in the Owner-Contractor Agreement, and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Architect means the Architect or his authorized representative.

2.2 Administration of the Contract

2.2.1 The Architect will provide administration of the Contract as hereinafter described.

2.2.2 The Architect will be the Owner's representative during construction and until final payment is due. The Architect will advise and consult with the Owner. The Owner's instructions to the Contract shall be forwarded through the Architect. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument signed by the Owner.

2.2.3 The Architect will visit the site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the Work and to

determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of his on-site observations as an Architect, he will keep the Owner informed of the progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor.

2.2.4 The Architect will not be responsible for and will not have control or charge of construction means, methods, techniques or procedures, or for safety precautions and programs in connection with the Work, and he will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect will not be responsible for or have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of the Work.

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2.2.5 The Architect shall at all times have access to the Work wherever it is in preparation and progress. The Contractor shall provide facilities for such access so the Architect may perform his functions under the contract documents.

2.2.6 Based on the Architects observations and an evaluation of the Contractor's Applications for Payment, the Architect will determine the amounts owing to the Contractor and will issue Certificates for Payment in such amounts as provided in Paragraph 9.4.

2.2.7 The Architect will render interpretations necessary for the proper execution or progress of the Work, with reasonable promptness and in accordance with any time limit agreed upon so as to cause no delay the Project. Either party to the Contract may make written request to the Architect for such interpretations.

2.2.8 All interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings.

2.2.9 The Architects decision in matters relating to artistic effect will be final if consistent with the intent of the Contract Documents. The Architect shall rule on all claims and disputes that relate to the interpretation of the Contract Documents.

2.2.10 The Architect will have authority to reject Work, which does not conform to the Contract Documents. Whenever, in his opinion, he considers it necessary or advisable for the implementation of the intent of the Contract Documents, he will have authority to require special inspection or testing of the Work in accordance with Subparagraph 7.7.2 whether or not such Work is then fabricated, installed or completed. In the event the Architect determines that any Work deleted by the Contractor should have been performed by the Contractor under the Contract Documents, he shall issue a final determination that the Contractor shall proceed with the Work as directed by the Architect, and the Contractor shall proceed with the Work even if he is in disagreement with the decision of the Architect.

2.2.11 The Architect will review and approve or take other appropriate action under Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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2.2.12 The Architect will prepare Change Orders in accordance with Article 12 and will have the authority to order minor changes in the Work as provided in Subparagraph 12.3.

2.2.13 The Architect will conduct inspections to determine the dates of Substantial Completion and completion will receive and forward to the Owner for the Owner's review written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a Final Certificate for Payment upon compliance with the requirements of Paragraph 9.8.

ARTICLE III

OWNER

3.1 Definition

3.1.1 The Owner is the person or entity identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Owner means the Owner, or his authorized representative.

3.2 Information and Services Required of the Owner

3.2.1 The Owner or Architect shall furnish all surveys describing the physical characteristics, legal limitations, and utility locations for the site of the Project, and a legal description of the site.

3.2.2 Except as provided in Subparagraph 4.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

3.2.3 Information or services under the Owner control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work.

3.2.4 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, all copies of Drawings and Specifications reasonably necessary for the execution of the Work.

3.2.5 The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein and especially those in respect to Work by Owner or by Separate Contractors, Payments and Completion and Insurance in Article 6, 9 and 11, respectively.

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3.3 Owner's Right to Stop the Work

3.3.1 If the Contractor fails to correct defective Work as required by Paragraph 13.2 or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity. Any such order to the Contractor shall be in writing.

3.4 Owner's Right to Carry Out the Work

3.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within two (2) days after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to any other remedy it may have, make good and correct such deficiencies with its own forces or with the forces of

another contractor. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Architect additional services made necessary by such default, neglect, or failure. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

3.4.2 The Owner shall have access to the Project at all times.

ARTICLE IV CONTRACTOR

4.1 Definition

4.1.1 The Contractor is the person or entity identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Contractor means the Contractor or his authorized representative.

4.2 Review of Contract Documents

4.2.1 The Contractor shall carefully study and compare the Contract Documents and shall at once report to the Architect any error, inconsistency or omission he may discover.

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4.3 Supervision and Construction Procedures

4.3.1 The Contractor shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under the Contract.

4.3.2 The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor.

4.3.3 The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents by either the activities or duties of the Architect in his administration of the Contract, or by inspection, tests, or approvals required or performed under Paragraph 7.7 by persons

other than the Contractor.

4.4 Labor and Materials

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

4.4.2 The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him.

4.4.3 When a material, equipment, or system is specified or approved in an addendum, by the name of one or more manufacturers, such material, equipment, or system shall form the basis of the contract. If Contractor desires to use another material, equipment, or system in lieu thereof, he shall request approval in writing and shall submit samples and data as required for the Architect's consideration. The Architect and Owner will be the final judge for the acceptance or the substitution. No Substitution shall be made without authority in writing from the Architect.

4.4.4 By making requests for substitutions based on Subparagraph 4.4.3 above, the Contractor:

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- .1 represents that he has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;
- .2 represents that he will provide the same warranty for the substitute that is required by the Contract Documents for that specified.
- .3 certifies that the cost data presented is complete and includes all related costs and excludes the Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently became

apparent; and

- .4 will coordinate the installation of the accepted substitute, making such changes at no additional cost to Owner as may be required for the Work to be complete in all respects.

4.4.5 The General Contractor shall disclose the existence and extent of financial interests, whether direct or indirect, he has in subcontractors and material suppliers, which he may propose for this Project.

4.5 **Warranty**

4.5.1 The Contractor warrants to the Owner and the Architect that all materials and equipment furnished under this Contract will be new unless otherwise specified, and all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and requirements including substitutions not properly approved and authorized, may be considered defective. If required by the Architect, the Contractor shall furnish satisfactory evidence. This warranty is not limited by the provisions of Paragraph 13.2.

4.6 **Taxes**

4.6.1 The Contractor shall pay all sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Contractor, which are legally enacted at the time bids, are received, whether or not yet effective.

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4.7 **Permits, Fees, and Notices**

4.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and for all other permits and governmental fees, licenses and inspections necessary for the proper execution of the Contract.

4.7.2 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the Work.

4.7.3 If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Architect, he shall assume full responsibility therefore and shall bear all costs attributable thereto.

4.8 Allowances and Owner Furnished Equipment, Fixtures or Labor

4.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by these allowances shall be supplied for such amounts and by such persons as the Owner may direct, but the Contractor will not be required to employ persons against whom he makes a reasonable objection.

4.8.2 Unless otherwise provided in the Contract Documents:

- .1 these allowances shall cover the cost to the Contractor, less any applicable trade discount, of the materials and equipment required by the allowance delivered at the site, and applicable taxes;
- .2 the Contractor's costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the original allowance shall be included in the Contract Sum and not in the allowance;
- .3 whenever the cost is more than or less than the allowance, the Contract Sum shall be adjusted accordingly by Change Order, the amount of which will recognize changes, if any, in handling costs on the site, labor, installation costs, overhead, profit and other expenses.

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4.8.3 The Owner may directly furnish any or all of the equipment, fixtures, or labor required for the Project. In the event the Owner elects to do so, the Contract Price for such equipment, fixtures, or labor will be reduced by the amount for equipment or labor being furnished by Owner. A Change Order reducing the Contract Price for that item of work shall be executed by Owner and Contractor to reflect a reduction in the Contract Price for that item, equipment, fixtures or work that

the Owner is to furnish. The Contractor shall assume responsibility for and be fully responsible for the care, custody, and control of all Owner furnished equipment and/or fixtures once said equipment or fixtures arrive on the job site or in any approved off site storage facility.

4.9 Superintendent

4.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor and shall be confirmed in writing.

4.10 Documents and Samples at the Site

4.10.1 The Contractor shall maintain at the site for the Owner, one record copy of all Drawings, Specifications, Addenda, Change Orders, and other Modifications, in good order and marked currently to record all changes made during construction and approved Shop Drawings, Product Data and Samples. These shall be available to the Architect and shall be delivered to him for the Owner upon completion of the Work.

4.11 Shop Drawings, Product Data, and Samples

4.11.1 Shop Drawings are drawings, diagrams, schedules, and other data specifically prepared for the Work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

4.11.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate a material, product, or system for some portion of the Work.

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

4.11.4 The Contractor shall review, approve and submit, with reasonable promptness and in such sequence as to cause no delay

in the Work or in the work of the Owner or any separate contractor, all Shop Drawings, Product Data and Samples required by the Contract Documents.

4.11.5 By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and the Contract Documents.

4.11.6 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Architects approval of Shop Drawings, Product Data or Samples under Subparagraph 2.2.11, unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submission and the Architect has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data, or Samples by the Architect approval thereof.

4.11.7 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, or Samples, to revisions other than those requested by the Architect on previous submittals.

4.11.8 No portion of the Work requiring submission of a Shop Drawing, Product Data, or Sample shall be commenced until the submittal has been approved by the Architect as provided in Subparagraph 2.2.11. All such portions of the Work shall be in accordance with approved submittals.

4.12 Use of Site

4.12.1 The Contractor shall confine operations at the site to areas permitted by law, ordinance, permits and the Contract Documents and shall not unreasonably encumber the site with any materials or equipment.

4.13 Cutting and Patching of Work

4.13.1 The Contractor shall be responsible for all cutting,

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fitting or patching that may be required to complete the Work or to make its several parts fit together properly.

4.13.2 The Contractor shall not damage or endanger any portion of the Work or the work of the Owner or any separate contractors by cutting, patching or otherwise altering any work, or by excavation. The Contractor shall not cut or otherwise alter the work of the Owner or any separate contractor except with the written consent of the Owner. The Contractor shall not unreasonably withhold from the Owner his consent to cutting or otherwise altering the Work.

4.14 Cleaning Up

4.14.1 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of the Work, he shall remove all his waste materials and rubbish from and about the project as well as all his tools, construction equipment, machinery and surplus materials.

4.14.2 If the Contractor fails to clean up at the completion of the Work, the Owner may do so as provided in Paragraph 3.4 and the cost thereof will be charged to the Contractor.

4.15 Royalties, Patents, and Records

4.15.1 The Contractor shall pay all royalties and license fees. He shall defend all suits and claims for infringement of any patent rights and shall save Owner and Architect harmless from loss on account thereof.

4.15.2 The Contractor shall not discriminate against any subcontractor, employee, or applicant for employment on the grounds of race, color, national origin, or sex.

4.15.3 The Contractor and all subcontractors under the general contract shall maintain copies of every sub-payroll period for the life of the construction contract and for a period of three (3) years after final release and payment is made by the Owner to the Contractor.

4.15.4 Each Contractor request for payment, including final payment and each partial payment, if permitted by the contract, shall contain a certification by the Contractor that performance by the Contractor and his subcontractor for the period of work covered by the payment request has been in accordance with the contract clauses and requirements with respect to nondiscrimination.

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4.15.5 Representatives of Shelby County, as designated by the Mayor, shall have the right to inspect the Contractor's facilities and payroll records during the term of the construction contract and for a period of three (3) years after final release and final payment by the Owner for the purposes of verifying nondiscrimination in employment.

4.15.6 The Contractor shall incorporate the same requirements set forth in Subparagraph 5.3.1 in all Subcontracts awarded by him with the further requirement that each Subcontract include identical requirements to be included in any lower tier Subcontracts together with the requirement to include it in any further subcontracts that might be made.

4.16 Indemnification

4.16.1 (a) By executing this Agreement, the Contractor assumes the entire responsibility and liability for any and all claims, damage or injury of any kind or nature (including death) to all persons, whether employees of the Contractor or otherwise, and to all property (including but not limited to the replacement cost and loss of use of property), caused by, resulting from, arising out of, or occurring in connection with the performance of the Work by the Contractor, its agents, servants, employees, or subcontractors or anyone directly or indirectly employed by any of them for whose acts any of them may be liable.

(b) If any claim is made against the Owner for any damage, injury, death, or loss, whether such claim is based upon the Contractor or its agents, servants, employees, or subcontractors' alleged active or passive negligence or participation in the wrong, or upon any alleged active or passive negligence or participation in the wrong, or upon any alleged breach of any statutory duty or obligation on the part of the Contractor, its agents, servants, employees or subcontractors, or in any other instance for which the Contractor has assumed responsibility in this Agreement, the Contractor shall indemnify, defend, and hold harmless the Owner, its officers, directors, agents, servants and employees from and against any and all loss, expense, judgment, damage or injury (including attorney's fees and expenses) that the Owner or its officers, directors, agents, servants or employees may sustain as the result of any such claim. The Contractor shall assume on behalf of the Owner, its officers, directors, agents, servants

and employees the defense of any action at law or in equity which may be brought against any of them upon any such claim, and shall pay on behalf of them the amount of any judgment with any costs or expenses incurred by any of them in connection with such claim.

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4.16.2 Labor Indemnity

4.16.2.1 The Contractor shall indemnify, defend and hold harmless the Owner from any and all administrative and judicial actions (including reasonable attorney's fees related to any such action) incurred by the Owner in connection with any labor related activity arising from the performance of the Work of the Contractor. As used in this Agreement, labor related activity includes, but is not limited to strikes, walkouts, informational or organizational picketing, use of placards, distribution of handouts, leaflets or in the vicinity of any facility where the Owner conducts business. The Owner shall advise the contractor if any labor related activity occurs and the Contractor shall arrange for the legal representation necessary to protect the Owner, provided such representation is previously approved by the Owner.

4.16.3 Attorney's Fees

4.16.3.1 In the event it becomes necessary for Owner to employ an attorney to enforce any provision of this Agreement, then the Contractor shall be liable for all attorney's fees and litigation expense of Owner.

4.17 Progress Schedule

4.17.1 The Contractor shall, within five (5) days from receipt of the Notice to Proceed, prepare and submit for the Owner and Architect an estimated project schedule for the Work. The Progress Schedule shall be updated each month to reflect actual progress made and to forecast future progress of the Work. The Progress Schedule shall be related to the entire Project as provided by the contract Documents and shall provide for expeditious and practicable execution of the Work. The Owner reserves the right to reasonably reschedule the Work or the sequence of activities of the contractor for no additional compensation should it deem rescheduling to be in its best interest.

ARTICLE V
SUBCONTRACTORS

5.1 Definition

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representative. The term Subcontractor does not include any separate contractor or his subcontractor.

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

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

5.2.1 Unless otherwise required by the Contract Documents or Bidding Documents, the Contractor, as soon as practicable after the award of the Contract, shall furnish to the Owner and the Architect in writing the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The Architect will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect to reply promptly shall constitute notice of no reasonable objection. No work shall be commenced until approval of all such Subcontractors has been given in writing by the Owner. If required, the Contractor shall furnish evidence satisfactory to the Owner, showing each proposed Subcontractor is competent to execute the Work covered by the Subcontract.

5.2.2 The Contractor shall not contract with any such proposed person or entity to whom the Owner or the Architect has made reasonable objection under the provisions of Subparagraph 5.2.1. The Contractor shall not be required to contract with anyone to whom he has a reasonable objection.

5.2.3 If the Owner or the Architect has reasonable objection to any such proposed person or entity, the Contractor shall

submit a substitute to whom the Owner or the Architect has no reasonable objection. Such substitution shall in no way affect the Contract Sum.

5.2.4 The Contractor shall make no substitution for any Subcontractor, person, or entity previously selected if the Owner or Architect makes reasonable objection to such substitution.

5.2.5 The Contractor shall submit a status report with regard to Subcontractors identified on Exhibit C, which forms a part of the Contract Documents, as to any change in the subcontractors identified thereon and the reasons for same, the dollars paid to the prior subcontractor and the amount of the new subcontract.

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THIS REPORT SHALL BE SUBMITTED TO CONTRACTS ADMINISTRATION OF SHELBY COUNTY GOVERNMENT, 160 N. Main St., Suite 1109, Memphis, Tennessee, 38103.

5.3 Subcontractual Relations

5.3.1 By an appropriate agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner and the Architect. Said agreement shall preserve and protect the rights of the Owner and the Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the Contractor-Subcontractor agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by the Paragraph 5.3, and identify to the Subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to any Sub-subcontractors.

ARTICLE VI
WORK BY OWNER OR BY SEPARATE CONTRACTORS

6.1 **Owner's Right to Perform Work and to Award Separate Contracts**

6.1.1 The Owner reserves the right to perform work related to the Project with his own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract.

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

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6.2 **Mutual Responsibility**

6.2.1 The Contractor shall afford the Owner and separate contractor's reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate his Work with theirs as required by the Contract Documents.

6.2.2 If any part of the Contractor's Work depends on proper execution or results in the work of the Owner or any separate contractor, the Contractor shall, prior to proceeding with the Work, promptly report to the Architect any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor to so report shall constitute an acceptance of the Owner's or separate contractor's work as fit and proper to receive his Work.

6.2.3 Should the Contractor wrongfully cause damage to the work or property of the Owner or to other work on the site, the Contractor shall promptly remedy such damage as provided in Subparagraph 10.2.5.

6.2.4 Should the Contractor wrongfully cause damage to the work or property of any separate contractor, the Contractor shall upon due notice promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues the Owner on account of any damage

alleged to have been caused by the Contractor, the Owner shall notify the Contractor who shall defend such proceedings, and if any judgment or award against Owner arises there from, the Contractor shall pay or satisfy it and shall reimburse the Owner for all Attorney's fees and Court costs which the Owner has incurred.

6.3 Owner's Right to Clean Up

6.3.1 If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up as required by Paragraph 4.14, the Owner may clean up and charge the cost thereof to the contractors responsible therefore as the Owner shall determine to be just.

ARTICLE VII MISCELLANEOUS PROVISIONS

7.1 GENERAL COMPLIANCE WITH LAWS

7.1.1 If required, the Contractor certifies that it is

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qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Agreement.

7.1.2 The Contractor is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the conduct of the work. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety, and Health Administration (OSHA) requirements, and the Americans with Disabilities Act (ADA).

7.1.3 This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this contract the Contractor agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other.

In accordance herewith, the parties to this contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

7.2 Successors and Assigns

7.2.1 This Agreement (including without limitation, all obligations imposed by the Contract Documents) shall be binding upon and shall inure to the benefit of the parties= successors, assigns, and legal representative. The Contract shall not be assigned or sublet in whole or in part by the Contractor without the written consent of the Owner, nor shall the Contractor assign any monies due or to become due to him hereunder, without the previous written consent of the Owner.

7.3 Written Notice

7.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm, entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to him who gives the notice.

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7.4 Claims for Damages

7.4.1 Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the other party, or of any of his employees, agents or others for whose acts he is legally liable, claim shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

7.5 Performance Bond and Labor and Material Payment Bond

7.5.1 The Contractor shall furnish and keep in force throughout the performance of the Work a separate performance bond and separate labor and material payment bond, each in the amount of the total of the Contract (as the same may be modified from time to time) conditioned upon the faithful performance of the Work by the Contractor and payment of all obligations arising in connection with the Work by the Contractor. Said bonds shall also guarantee to the Owner that the Work shall be

fee of all liens upon the property of the Owner. The bonds shall name the Owner as obligee and shall be with such Surety authorized to do business in the State of Tennessee and in such form and manner as approved by Owner. Said Bond shall be subject to final approval of the Shelby County Risk Management Department. Said bonds shall be furnished to the Owner prior to the commencement of the Work, or upon written request by Owner to Contractor after the Work has commenced.

7.6 Rights and Remedies

7.6.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

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

7.7 Tests

7.7.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested or approved, the Contractor shall give the Architect timely notice of its readiness so the Architect may observe such inspection, testing

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or approval. The Contractor shall bear all costs of such inspections, tests, or approvals conducted by public authorities. Unless otherwise provided, the Owner shall bear all costs of other inspections or tests.

7.7.2 If the Architect determines that any Work requires special inspection, testing, or approval, which Subparagraph 7.7.1 does not include, he will, upon written authorization from the Owner, instruct the Contractor to order such special inspection, testing, or approval, and the Contractor shall give notice as provided in Subparagraph 7.7.1. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents, the Contractor

shall bear all costs thereof, including compensation for the Architect's additional services and/or correction of the defective Work made necessary by such a failure; otherwise, the Owner shall bear such costs, and an appropriate Change Order shall be issued.

7.7.3 Required certificates of inspection, testing, or approval shall be secured by the Contractor and promptly delivered by him to the Architect.

7.7.4 If the Architect is to observe the inspection, tests or approvals required by the Contract Documents, he will do so promptly where practicable, at the source of supply.

ARTICLE VIII

TIME

8.1 Definitions

8.1.1 Unless otherwise provided, the Contract time is the period of time allotted in the Contract Documents for Substantial Completion of the Work as defined in Subparagraph 8.1.3, including authorized adjustments thereto.

8.1.2 The date of commencement of the Work is the date established in a notice to proceed. If there is no notice to proceed, it shall be the date of the Owner-Contractor Agreement or such other date as may be established therein.

8.1.3 The date of Substantial Completion of the Work or designated portion thereof is the Date certified by the Architect when construction is sufficiently complete, in accordance with the contract Documents, so the Owner can occupy or utilize the Work or designated portion thereof for the use for which it is intended.

8.1.4 The term day as used in the Contract Documents shall mean calendar day unless otherwise specifically designated. Initial _____

8.2 Progress and Completion

8.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.

8.2.2 The Contractor shall begin the Work on the date of

commencement as defined in Subparagraph 8.1.2. He shall carry the work forward expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

8.3 Delays and Extensions of Time

8.3.1 The Contractor shall proceed with each and every part of this Agreement in a prompt and diligent manner. The Contractor, without additional compensation, shall perform the Work at such times, in such order and in such manner as the Owner may direct. The Contractor shall commence, continue, and complete its performance of the Project so as not to delay Owner or other separate contractors of the Owner or subcontractors= completion of the Work or any portions thereof, and so as to insure completion as directed by Owner. Any time specified for the completion of the Work, or portion thereof, is a material provision of this Agreement, and time is of the essence. The Contractor shall furnish sufficient forces to assure proper performance of its Work in strict compliance with all performance or progress schedules for the Project.

8.3.2 The Contractor shall, from time to time, on written demand of Owner, give adequate evidence to Owner to substantiate the planned performance and progress of the Work and the various parts thereof. The Contractor shall promptly increase its work force, accelerate its performance, work overtime, work Saturdays, Sundays and holidays, all without additional compensation, if in the opinion of the Owner, such work is necessary to maintain proper progress. The Contractor will fully cooperate and coordinate its work with any other separate contractors of Owner or subcontractors at the Project. The Contractor shall bear the costs of all damages done to other separate contractors of Owner or subcontractors and shall be responsible for any damages caused by or resulting from acts or omissions of the Contractor in failing to make proper progress. The liability of the Contractor shall not be deemed waived by any assent or acquiescence by Owner to the Contractor's late performance. Owner shall be entitled to terminate this Agreement due to late or threatened late performance, upon seven (7) days notice to proceed and Contractor's failure to do so.

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8.3.3 In the event any subcontractor should damage the Contractor, the Contractor shall neither seek nor be entitled to any compensation from Owner, but will seek its damages directly from such subcontractor. Should the Contractor's performance, in whole or part, be disrupted, interfered with or delayed, or be suspended in the commencement, prosecution or completion, for

reasons beyond the Contractor's control and without its fault or negligence, the Contractor shall be entitled to an extension of time in which to complete its Work; but only if it shall have notified the Owner, in writing, of the cause of delay within five (5) days of the occurrence of the event. The Contractor and Owner agree that the Contractor shall not be entitled to any money damages regardless of fault as a result of any delay, acceleration, disruption, interference, suspension, or other event affecting the Contractor or the Contractor's performance.

ARTICLE IX
PAYMENTS AND COMPLETION

9.1 Contract Sum

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

9.2 Schedule of Values

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to the various portions of the Work, prepared in such form, and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used only as a basis for the Contractor's Applications for Payment.

9.3 Applications for Payment

9.3.1 At least ten days before the date of each progress payment established in the Owner-Contractor Agreement, the Contractor shall submit to the Architect an itemized Application for Payment, notarized if required, supported by such data substantiating the Contractor's right to payment as the Owner or the Architect may require, and reflecting retain age, if any, as provided elsewhere in the Contract Documents. The Contractor shall indicate on each Application for Payment the dollar amount and percentage due Subcontractors.

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Progress payments (monthly) will be made based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect as follows:

On or before the 10th day of each month, 95% of the proportion of the Contract Sum properly allocable to labor, materials and equipment incorporated in the Work, up to the first day of that month, less the aggregate of previous payments in each case. Payments will be less such retainage as the Architect shall determine for all incomplete work and unsettled claims.

9.3.1.1 Until final payment, the Owner will pay 95% of the amount due the Contractor on account of progress payments. If the manner of completion of the Work and its progress are and remain satisfactory to the Owner, it may, in its sole discretion, for each Work category shown to be 50% or more complete in the Application for Payment, without reduction of previous retainage, on presentation by the Contractor with Consent of Surety for each application, certify any remaining progress payments for each Work category to be paid in full.

9.3.1.2 The full Contract retainage may be reinstated at any time in the sole discretion of the Owner.

9.3.2 Unless otherwise provided in the Contract Documents, payments will be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site and, if approved in advance by the Owner, payments may similarly be made for materials or equipment suitably stored at some other location agreed upon in writing. Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance and transportation to the site for those materials and equipment stored off the site.

9.3.3 The Contractor warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the Owner either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in the Article IX as Aliens; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other persons performing Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

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9.3.4 The Contractor shall submit a report with each Application for Payment, which sets forth all subcontractors performing work during that reporting period, the dollar amount paid to the subcontractor, etc. on the form provided by Shelby County Government.

9.4 Certificate for Payment

9.4.1 The Architect will, within seven (7) days after the receipt of the Contractor's Application for Payment, issue a Certificate for Payment to the Owner for such amount as the Architect determines is properly due.

9.4.2 The issuance of a Certificate of Payment will constitute a representation by the Architect to the Owner, based on his observations at the site as provided in Subparagraph 2.2.3 and the data comprising the Application for Payment, that the Work has progressed to the point indicated; that, to the best of his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and any specific qualifications stated in his Certificate); and that the Contractor is entitled to payment in the amount certified.

9.5 Progress Payments

9.5.1 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's Work. The Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments to his Sub-subcontractors in similar manner.

9.6 Payments Withheld

9.6.1 The Architect may decline to certify payments and may withhold his Certificate in whole or in part, to the extent necessary to protect the Owner, if in his opinion he is unable to make representations to the Owner as provided in Subparagraph

9.4.2. The Architect may also decline to certify payment or,

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because of subsequently discovered evidence or subsequent observations, he may nullify the whole or any part of any Certificate for Payment previously issued, to such extent as may be necessary in his opinion to protect the Owner from loss because of:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or another contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time; or
- .7 persistent failures to carry out the Work in accordance with the Contract Documents.

9.6.2 When the above grounds in Subparagraph 9.6.1 are removed, payment shall be made, without interest, for any amounts previously withheld.

9.7 Substantial Completion

9.7.1 When the Contractor considers that the Work, or a designated portion thereof which is acceptable to the Owner, is substantially complete as defined in Subparagraph 8.1.3, the Contractor shall prepare for submission to the Architect a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When the Architect on the basis of an inspection determines that the Work or designated portion thereof is substantially complete, he will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for security, maintenance, heat,

utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. Warranties required by the Contract Documents shall

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commence on the Date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

9.7.2 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof, as provided in the Contract Documents. Payment by the Owner upon application by the Contractor and certification by the Architect for Substantial Completion does not waive any claims the Owner may have against the Contractor.

9.8 Final Completion and Final Payment

9.8.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when he finds the Work acceptable under the Contract Documents and the Contract fully performed, he will promptly issue a final Certificate for Payment stating that to the best of his knowledge, information and belief, and on the basis of his observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract documents and that the entire balance found to be due the Contractor, and noted in said final Certificate, is due and payable. The Architect's final Certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth in Subparagraph 9.7.2 have been fulfilled.

9.8.2 Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or his property might in any way be responsible, have been paid or otherwise satisfied, (2) consent of surety to final payment and (3) if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of claims, encumbrances and/or alleged liens arising out of the Contract, to the extent and in such form as may be designated by the Owner. If any Subcontractor refuses to furnish a release or

waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify him against such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorney's fees.

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9.8.3 The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment.

ARTICLE X
PROTECTION OF PERSONS AND PROPERTY

10.1 Safety Precautions and Programs

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

10.2 Safety of Persons and Property

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

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

10.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury, or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities. Pavements, sidewalks, alleys, adjacent buildings not included in this Contract, which may be damaged, shall be repaired and/or replaced immediately and in a manner satisfactory to the Architect, Shelby County and/or other governing officials.

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

10.2.5 The Contractor shall promptly remedy all damage or loss (other than damage or loss insured under Paragraph 11.3) to any property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, Subcontractor, or any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts the Contractor may be liable or responsible. The foregoing obligations of the Contractor are in addition to his obligations under Paragraph 4.16.

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

10.2.7 The Contractor shall not load or permit any part of the Work to be loaded to endanger its safety.

10.3 Emergencies

10.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury, or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article XII for Changes in the Work.

10.3.2 Whenever the Contractor has not taken sufficient precautions for the safety of the public or the protection of work to be performed under this Project, or adjacent structures

or property which may be injured by processes of construction, demolition and/or site clearance on account of such neglect, and whenever an emergency shall arise and immediate action shall be considered necessary in order to protect public or private, persons or property interest, then the Architect and/or the Owner shall so instruct the Contractor.

10.3.3 If correction is not made in due time or if conditions such as lack of time prevent instructions to Contractor, then the Owner, without notice to the Contractor, may provide reasonable, suitable protection by causing such Work to be done and material to be furnished and placed as the Architect and Owner may consider necessary and adequate. The cost and expense of such work and

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material so furnished shall be borne by the Contractor and, if the same shall not be paid on presentation of the bills thereof, such costs shall be deducted from any amounts due or to become due the Contractor. The performance of such emergency work under the direction of the Owner and/or Architect shall in no way relieve the Contractor of the responsibility for damages, which may occur during or after such performance.

10.3.4 None of the foregoing shall make the Owner and/or Architect responsible for foreseeing and protecting against emergency.

ARTICLE XI **INSURANCE**

11.1 Contractor's Liability Insurance

11.1.1 The Contractor shall purchase and maintain, in a company or companies licensed to do business in the State of Tennessee, such insurance as will protect the Owner from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts the Contractor or Subcontractor may be liable:

- .1 claims under workers= compensation, disability benefits, and other similar employee benefit acts;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of his employees;

- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees;
- .4 claims for damages insured by personal injury liability coverage, which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
- .5 claims for damages, other than the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
- .6 claims 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.

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11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than any limits of liability specified in the Contract Documents, section III, paragraph 31, or required by law, whichever is greater.

11.1.3 The insurance required by Subparagraph 11.1.1 shall include contractual liability insurance applicable to the Contractor's obligations under Paragraph 4.16.

11.1.4 All insurance policies maintained by the Contractor shall provide that insurance as applying to the Owner shall be primary and non-contributing irrespective of such insurance as the Owner may maintain in its own name and on its own behalf.

11.1.5 Certificates of Insurance acceptable to the Owner shall be filed with the Owner at the time of submittal of the Contract Documents to the Owner for execution. These certificates shall contain a provision that coverage's afforded under the policies will not be canceled until at least thirty-(30) days prior written notice has been given to the Owner. The Contractor shall immediately notify Shelby County Government, Contract Administration, 160 N. Main Street, Suite 550, Memphis, Tennessee 38103 of cancellation or changes in any of the insurance coverage required. Upon request of the Owner,

certified copies of any of the required insurance policies may be requested from the Contractor or Contractor's insurance company, agency, or broker.

11.2 Owners Liability Insurance

11.2.1 The Owner shall at its discretion, purchase liability insurance or maintain a self-insured liability program.

11.3 Property Insurance

11.3.1 The General Contractor shall be responsible for all risk insurance for physical loss or damage for the project during construction until the project is accepted by the Owner at which time the Owner will provide the property coverage.

11.3.2 The Contractor shall pay each Subcontractor a just share of any insurance monies received by the Contractor, and by appropriate agreement, written where legally required for validity, shall require such Subcontractor to make payments to his Sub-subcontractors in similar manner.

11.3.3 The Contractor or his insurance agent, broker or insurance company shall furnish to Owner a copy of all policies with the Contractor within five days of request.

11.3.4 If the Owner requests in writing that insurance for risks

other than those described in Subparagraphs 11.3 and 11.3.2 or 11.3.3 or other special hazards to be included in the property insurance policy, the Contractor shall, if possible, include such insurance, and the cost thereof shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order. Initial_____

ARTICLE XII
CHANGES IN THE WORK

12.1 Change Orders

12.1.1 A Change Order is a written order to the Contractor signed by the Owner issued after execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. A Change Order signed by the Contractor indicates his agreement therewith, including the adjustment in the Contract Sum or the Contract Time. The Contractor by execution of the Change Order waives any further claims or damages in any manner whatsoever for the changes set forth in the Change Order.

12.1.2 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents.

12.1.3 The cost or credit to the Owner resulting from a change in the Work shall be determined in one or more of the following ways:

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- .1 by lump sum properly itemized on the form furnished by the Owner which shall show the actual verified cost of the work, plus ten percent overhead and five percent profit; if the work is performed by a Subcontractor, the General Contractor is allowed an additional five percent;
- .2 by unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 by cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 by the method provided in Subparagraph 11.1.4.

12.1.4 If none of the methods set forth in Clauses 12.1.3.1, 12.1.3.2, or 12.1.3.3 is agreed upon, the Contractor, provided he receive a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of such Work shall then be determined by the Architect on the basis of the reasonable expenditures and savings of those performing the Work attributable to the change, including, in the case of an increase in the Contract Sum, a reasonable allowance for overhead and profit, which shall be defined as ten percent overhead and five percent profit with an additional five percent going to the General Contractor when the work is performed by a Subcontractor. In such case, and also under Clauses 12.1.3.3 and 12.1.3.4 above, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of labor, including social security, old age and unemployment insurance and fringe benefits required by agreement or custom; workers= or workmen compensation insurance; bond premiums, rental value of equipment and machinery; and the additional costs of supervision and field office personnel directly attributable to the change. Pending final determination of cost to the Owner, payments on account shall be made on the Architect's Certificate for Payment. The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

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12.2 Concealed Conditions

12.2.1 Should concealed conditions encountered in the performance of the Work below the surface of the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown physical conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in

this Contract, be encountered, Contractor, subject to approval by the Architect, shall be entitled to a time extension for only the period that the Contractor's performance is extended due to the unforeseen conditions.

12.3 Minor Changes in the Work

12.3.1 The Architect will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such Changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE XIII UNCOVERING AND CORRECTION OF WORK

13.1 Uncovering of Work

13.1.1 If any portion of the Work should be covered contrary to the request of the Architect or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect, be uncovered for his observation and shall be replaced at the Contractor's expense.

13.1.2 If any other portion of the Work has been covered which the Architect has not specifically requested to observe prior to being covered, the Architect may request to see such Work, and it shall be uncovered by the Contractor. If such Work is found in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is found not in accordance with the Contract Documents, the Contractor shall pay such costs. If the Work to be uncovered by the Contractor should have been inspected by the Architect prior to being covered, and the Work is found to be in accordance with the Contract Documents, the cost of the uncovering and recovering of the Work shall be borne by the Architect.

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13.2 Correction of Work

13.2.1 The Contractor shall promptly correct all Work rejected by the Architect as defective or as failing to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed

or completed. The Contractor shall bear all costs of correcting such rejected Work, including compensation for the Architect's additional services made necessary thereby.

13.2.2 If, within one year after the Date of Substantial Completion of the Work or designated portion thereof, within one year after acceptance by the Owner of designated equipment or within such longer period of time as may be prescribed by law or by the term of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner to do so. This obligation shall survive termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.

13.2.3 The Contractor shall remove from the site all portions of the Work, which are defective or non-conforming, unless removal is waived by the Owner.

13.2.4 If the Contractor fails to correct defective or non-conforming Work as provided in Subparagraphs 4.5.1, 13.2.1, and 13.2.2, the Owner may correct it in accordance with Paragraph 3.4.

13.2.5 If the Contractor does not proceed with the correction of such defective or non-conforming Work within a reasonable time fixed by written notice from the Architect, the Owner may remove it and store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten days thereafter, the Owner may, upon ten additional days' written notice, sell such Work at auction or a private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for the Architect's additional services made necessary thereby. If such proceeds of sale do not cover all costs, which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

13.2.6 The Contractor shall bear the cost of making good all work of the Owner or separate contractors destroyed or damaged by such correction or removal.

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13.2.7 Nothing contained in Paragraph 13.2 shall be construed to establish a period of limitation with respect to any other

obligation which the Contractor might have under the Contract Documents, including Paragraph 4.5 hereof. The establishment of the time period of one year after the Date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligations other than specifically to correct the Work.

13.3 Acceptance of Defective or Non-Conforming Work

13.3.1 If the Owner prefers to accept defective or non-conforming Work, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable. Such adjustment shall be effective whether or not final payment has been made.

ARTICLE XIV TERMINATION OF THE CONTRACT

14.1 Termination for Default

14.1.1 Should the Contractor fail to perform in strict accordance with this Agreement, where or as Owner may so direct, or should the Contractor become insolvent, unable to or fail to pay its obligations as they mature or, in any other respect fail in the opinion of the Owner, to properly prosecute and perform any part of its work, fail to exert its best performance efforts, be involved in labor disputes, or be terminated under any other contract with Owner, then the Contractor may be deemed by Owner to have materially breached and to have defaulted in its obligations under this Agreement. In case of a breach and default, the Owner, at its discretion, may terminate this Agreement, or any part thereof, by giving five (5) days written notice thereof to the Contractor. In case of such termination, Owner may use any and all materials, equipment, tools or chattels furnished by or belonging to the Contractor either at or for the Project.

14.1.2 The Contractor, on termination, will be deemed to have offered to Owner an assignment of all of its subcontracts and purchase orders relating to this Project. Owner may, at its discretion, do whatever is necessary to assure performance of

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terminated work and to take such action, if necessary, in the Contractor's name. Owner may withhold from Contractor any monies due or to become due under this or any other contract between the Contractor and Owner, to offset the damages incurred or possibly incurred as a result of the breach and default by the Contractor. In case of a breach, or in the event Owner is required to retain the services of an attorney to enforce any provisions of this Agreement, then the Contractor and its surety company shall be liable to Owner for any and all additional costs, expenses, attorney's fees and other damages, both liquidated and unliquidated, which directly or indirectly result from the Contractor's breach, threatened breach, default or lack of performance of any term or condition of this Agreement.

14.1.3 If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for the Architect's additional services made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or to the Owner, as the case may be, shall be certified by the Architect, upon application, in the manner provided in Paragraph 9.4, and this obligation for payment shall survive the termination of this Contract.

14.2 Termination for Convenience

14.2.1 Owner, by written notice, shall have the right to terminate and cancel this Agreement, without the Contractor being at fault, for any cause or for its own convenience, and require the Contractor to immediately stop work. In such event, Owner shall pay the Contractor for that Work actually performed and materials furnished in an amount proportionate to the Contract price. Owner shall not be liable to the Contractor for any other costs, including prospective profits on Work not performed.

ARTICLE XV RIGHT TO OCCUPY BY OWNER

15.1 Early Occupancy by Owner

15.1.1 The Owner has the right to occupy or use ahead of schedule all or any substantially completed or partially

completed portion of the Work when such occupancy and use are in its best interest, notwithstanding the time of completion for all of the Work. If occupancy or use increases the cost of the Work (other than for corrections which are the responsibility of the Contractor) and/or as a result of the Owner exercising its rights

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herein, the contractor shall be entitled to extra costs and extensions of time, or both. Claims for such extra costs and extensions of time, to be valid, shall be made in writing to the Owner within seven (7) calendar days of the notification of Owner to the Contractor of its intent to so occupy or use.

15.2 Corrections after Occupancy

15.2.1 After the Owner has taken occupancy of all or any substantially completed portion of the Work, the Contractor shall not disrupt the use and occupancy of the Owner to make corrections in the Work but shall, at the discretion of the Owner, make such corrections at the expense of the Contractor after normal working hours.

15.3 Heating, Ventilating, and Air-Conditioning Systems

15.3.1 The Owner may require the use and operation of any completed heating, ventilating, and air-conditioning equipment at the time it occupies or uses any substantially completed portion of the Work. In such event, the Owner may require the Contractor to operate such equipment and will pay the Contractor the cost of such utilities required for the use and occupancy of the Owner, but the Contractor shall be responsible for such equipment and for its careful and proper operation. At any time, the Owner may assume the care and maintenance of any portion of the Work, which it is occupying and using for the operation of any such equipment, but in each case, the Contractor shall not be relieved of its responsibility for the full completion of the Work and the protection of its tools, materials, and equipment.

ARTICLE XVI REGULATIONS

16.1 Nondiscrimination in Employment

16.1.1 During the performance of this Contractual Agreement, the contracting party agrees as follows: The CONTRACTOR agrees that no person on the grounds of handicap, age, race, color,

religion, sex, or national origin, shall be excluded from participation in, or be denied benefits of, or be otherwise subject to discrimination in the performance of this contract, or in the employment practices of the CONTRACTOR. The CONTRACTOR shall upon request show proof of such non-discrimination, and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

16.2 [RESERVED]

Initial _____

16.3 Maintenance and Records

16.3.1 The Contractor and all Subcontractors under the General Contract shall maintain copies of every subcontract awarded and their own payrolls, for each weekly payroll period during the term of the Construction Contract and for a period of one (1) year after release and payment is made by Owner to the Contractor.

16.4 Owners Right of Inspection

16.4.1 Representative of the Owner, as designated by the County Mayor, shall have the right to inspect the Contractor's facilities and payroll records during the life of the Construction Contract for a period of one (1) year after final release and final payment by the Owner for the purpose of verifying nondiscrimination in employment.

**ARTICLE XVII
PROCEDURE FOR INSTALLATION OR
REMOVAL OF FIBERGLASS INSULATION**

The following procedures should be adhered to when disturbing, installing, or removing fiberglass insulation. These procedures are established to minimize employee exposure to the adverse health affects of fiberglass exposure.

The below procedures are the minimal requirements for handling fiberglass in Shelby County Facilities. Mandates by code or law must be adhered to.

**17.1 Installation, Removal, or Disturbance of
Fiberglass Insulation**

17.1.1 Install in well-ventilated areas and avoid breathing

dust.

17.1.2 Wear loose, comfortable clothing and long-sleeved shirts to minimize skin contact.

17.1.3 Handle carefully to minimize airborne dust.

17.1.4 If high dust levels are anticipated during installation, such as with power tools, use appropriate NIOSH approved dust respirator.

17.1.5 All power cutting tools must be equipped with dust collectors.

Initial _____

17.2 **Exposure**

17.2.1 After use, wash with warm water and mild soap. Do not scratch or rub skin if it becomes irritated. Utilize running water.

17.2.2 Wash work clothes separately, and then rinses the washer.

17.2.3 Eye exposure: Flush with flowing water for at least 15 minutes. If symptoms persist, seek immediate medical attention.

17.3 **Work Site Environment**

17.3.1 Insure area is free of obvious partials through proper cleanup procedures. Use of vacuum with proper filters, or wet cleanup is acceptable. (This includes office furniture, floors, and walls.)

17.3.2 Initially there may be a potential adverse impact on indoor air quality within the general work area during the installation process. Notify building manager or other appropriate person that it will be necessary to establish and maintain adequate ventilation of the work area, without causing the entry of contaminants to other parts of the building. Persons who are sensitive to odors and/or chemicals should be advised to avoid the work area during this process.

17.3.3 Exposure to employees should be kept to a minimum.

17.3.4 Disturbance of ceiling tiles where fiberglass insulation exists requires the same procedures as if installation or removal was taking place.

BY THE SIGNING OF THIS DOCUMENT AND INITIALING EACH PAGE HEREOF, THE CONTRACTOR CERTIFIES THAT HE HAS READ AND UNDERSTANDS ALL OF THE ABOVE AND AGREES TO ABIDE BY THESE GENERAL CONSTRUCTION CONDITIONS.

CONTRACTOR

BY: _____

TITLE: _____

DATE: _____

constcmd.doc

THIS IS A DRAFT ONLY!! ORIGINAL DOCUMENTS IN EXECUTED

FORM ARE REQUIRED PRIOR TO COUNTY SIGNATURE. IT IS A MANDATORY REQUIREMENT THAT ALL DOCUMENTS WHICH ARE REQUIRED TO BE ATTACHED TO THIS AGREEMENT BE ATTACHED BEFORE SUBMITTAL TO SHELBY COUNTY FOR SIGNATURE. IF NOT, THE AGREEMENT WILL BE RETURNED FOR COMPLETION.

COUNTY/CONTRACTOR AGREEMENT

OWNER: SHELBY COUNTY GOVERNMENT
160 N. MAIN ST.
MEMPHIS, TN 38103

CONTRACTOR:

**ARCHITECT\
ENGINEER:**

THIS CONTRACT made and entered into this _____ day of _____, 20__, by and between SHELBY COUNTY GOVERNMENT, through its governing body and authorized representative, party of the first part, hereinafter referred to as "COUNTY," and _____, party of the second part, hereinafter referred to as "CONTRACTOR."

WITNESSETH

WHEREAS, the COUNTY issued Sealed Bid No. _____ for _____, hereinafter in this Contract referred to as "PROJECT".

WHEREAS, the said CONTRACTOR submitted a bid/proposal in accordance with bid specifications, a copy of which is attached

hereto as Exhibit "A" and incorporated herein by reference, which bid was accepted by COUNTY.

NOW, THEREFORE, CONTRACTOR agrees and undertakes to (describe work to be done) in accordance with the Bid Specifications which are on file in the Shelby County Purchasing Department and which are incorporated herein by reference, and at the price quoted for said PROJECT by CONTRACTOR. Further, the parties agree that they will be governed by the Shelby County General Conditions of the Contract for work to be performed. The Contractor acknowledges that it has read and is familiar with the contents of said General Conditions, agrees to be bound thereby and has executed a copy of same at the place indicated thereon. A copy of said General Conditions is attached hereto as Exhibit "B" and incorporated fully herein by reference.

SECTION 1. CONTRACTOR'S RESPONSIBILITIES

1. CONTRACTOR shall perform all necessary work required by the contract documents for the satisfactory completion in full of the PROJECT.
2. CONTRACTOR shall coordinate all work with COUNTY through _____ . Work shall be scheduled on a regular basis in as timely and orderly a manner as possible.
3. The CONTRACTOR shall give a Performance Bond and Labor and Material Bond, each equal to 100% of the amount of the Contract, with surety to be approved by the COUNTY, conditioned upon the full and faithful performance of all the terms and conditions of the Contract with special reference to paying in full in lawful money of the United States, all just and valid claims for material and labor entered into for the said work covered by this Contract. That further, this Contract shall not take effect until these Bonds have been executed and approved by the County.
4. The CONTRACTOR further agrees to provide insurance coverage of the type and in the amounts as required in section III,

Specific Provision, paragraph 31.

5. The COUNTY shall pay the CONTRACTOR for the performance of the Contract _____ (\$)Dollars, subject to additions and deductions as provided in the contract documents.
6. The CONTRACTOR shall execute the entire work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, within _____ (__) calendar days from the actual start date as specified in the written "Notice to Proceed."
7. All work by CONTRACTOR is to be performed in a manner satisfactory to COUNTY, and in accordance with the established customs, practices and procedures of COUNTY. CONTRACTOR is to periodically request sufficient conferences to insure that the work is being done by CONTRACTOR in a satisfactory manner in accordance with the wishes of COUNTY.

SECTION II. METHOD OF PAYMENT

1. CONTRACTOR shall provide an Application for Payment to be received by the Architect/Engineer not later than the 25th day of each month. COUNTY shall make payment to the CONTRACTOR not later than the 20th day of the following month. If an Application for Payment is received by the Architect/Engineer after the application date fixed above, payment shall be made by COUNTY not later than forty-five (45) days after receipt of the Application for Payment. If the CONTRACTOR submits an incorrect Application for Payment, payment date will be extended thirty (30) days from the date of correction.
2. Application for payment shall indicate the percentage of completion of each portion of the work as of the end of the period covered by the Application for Payment.
3. Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:
 - a. Take that portion of the contract sum properly allocable to completed work as determined by

multiplying the percentage completion of each portion of the work by the total Contract Sum less retainage of five (5%) percent;

- b. Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by COUNTY, suitably stored off the site at a location agreed upon in writing), less retainage of five (5%) percent;
 - c. Subtract the aggregate of previous payments made by the COUNTY; and
 - d. Subtract amounts, if any, for which the Architect/Engineer has withheld or nullified a Certificate of Payment as provided in the General Conditions to Construction Contracts.
4. When all work embraced in this Contract has been fully and completely performed on the part of the CONTRACTOR, and accepted by the COUNTY, there shall be a statement by CONTRACTOR of the work done according to the terms herein, and the balance appearing to be due the CONTRACTOR out of funds applicable for payment for this work, excepting there from any sum that may be lawfully retained under the provisions of this Contract, Specifications, and General Conditions to Construction Contracts and all such funds as may be due the COUNTY.
5. The COUNTY shall have the right, at its option, to discharge the CONTRACTOR for any breach of any provision of this Contract, and such discharge shall not affect the right of the COUNTY against sureties on the Bonds provided.
6. It is further mutually agreed between the parties hereto that if at any time after the execution of this Contract and the Surety Bonds attached hereto for its faithful performance, the COUNTY shall deem the surety or sureties upon such bond inadequate to cover the performance of the work, the CONTRACTOR shall, at its expense, within five (5) days after the receipt of notice from the COUNTY so to do, furnish as additional bond or bonds, in satisfactory amount to the COUNTY. In such event, no further payment to the CONTRACTOR shall be deemed due under this Contract until such new or additional security for the faithful performance of the work shall be furnished in manner and

form satisfactory to the COUNTY.

7. CONTRACTOR further agrees to provide COUNTY an amount equal to _____ (\$) Dollars per day for liquidated damages for each consecutive calendar day required for the completion of the contract beyond the time stipulated. **(NOTE: If this paragraph is inapplicable, then N/A [not applicable] should be inserted in the applicable space.)**
8. Other contract provisions, including but not limited to insurance provisions may be required to enter into a contract with Shelby County Government.

SECTION III. SPECIFIC PROVISIONS

The parties further agree as follows:

1. CONTROL

All Services by the CONTRACTOR will be performed in a manner satisfactory to the COUNTY, and in accordance with the generally accepted business practices and procedures of the COUNTY.

2. CONTRACTOR'S PERSONNEL

The CONTRACTOR certifies that it presently has adequate qualified personnel to perform all Services required under this Contract. All work performed during the Term of this Contract will be supervised by the CONTRACTOR. The CONTRACTOR further certifies that all of its employees assigned to serve the COUNTY have such knowledge and experience as required to perform the duties assigned to them. Any employee of the CONTRACTOR who, in the opinion of the COUNTY, is incompetent, or whose conduct becomes detrimental to the work, shall immediately be removed from association with the Services under this Contract.

3. INDEPENDENT STATUS

- a. Nothing in this Contract shall be deemed to represent that the CONTRACTOR, or any of the Contractor's employees or agents, are the agents, representatives, or employees of the COUNTY. The CONTRACTOR will be an

independent CONTRACTOR over the details and means for performing the Services under this Contract. Anything in this Contract which may appear to give the COUNTY the right to direct the CONTRACTOR as to the details of the performance of the Services under this Contract or to exercise a measure of control over the CONTRACTOR is solely for purposes of compliance with local, state and federal regulations and means that the CONTRACTOR will follow the desires of the COUNTY only as to the intended results of the scope of this Contract.

- b. It is further expressly agreed and understood by CONTRACTOR that neither it nor its employees or agents are entitled to any benefits which normally accrue to employees of the COUNTY; that CONTRACTOR has been retained by the COUNTY to perform the Services specified herein (not hired) and that the remuneration specified herein is considered fees for the Services performed (not wages) and that invoices submitted to the COUNTY by CONTRACTOR for the Services performed shall be on the Contractor's letterhead.

4. REPORTS

CONTRACTOR shall prepare and submit quarterly reports of its activities, funded under this Contract, to the originating department and the Contract Administration Department of the COUNTY. The reports shall include an itemization of the use of County's funds, inclusive of specific Services delivered. Any such reports provided to the COUNTY shall be prepared with the understanding that the COUNTY may make such reports available to the public. The quarterly reports and all books of account and financial records that are specific to the work performed in accordance with this Contract may be subject to audit by the Director of the Division of Administration and Finance of the COUNTY. The COUNTY shall have the right to withhold future disbursement of funds under this Contract and any future Contracts until this provision has been met.

5. TERMINATION OR ABANDONMENT

- a. It shall be cause for the immediate termination of this Contract if, after its execution, the COUNTY determines that:
 - i) Either the CONTRACTOR or any of its principals,

partners or corporate officers, if a corporation, including the corporation itself, has plead nolo contendere, or has plead or been found guilty of a criminal violation, whether state or federal, involving, but not limited to, governmental sales or purchases, including but not limited to the rigging of bids, price fixing, or any other collusive and illegal activity pertaining to bidding and governmental contracting; or

ii) CONTRACTOR has subcontracted, assigned, delegated, transferred its rights, obligations or interests under this Contract without the County's consent or approval; or

iii) CONTRACTOR has filed bankruptcy, become insolvent or made an assignment for the benefit of creditors, or a receiver, or similar officer has been appointed to take charge of all or part of CONTRACTOR assets.

b. The COUNTY may terminate the Contract upon five (5) days written notice by the COUNTY or its authorized agent to the CONTRACTOR for Contractor's failure to provide the Services specified under this Contract.

c. This Contract may be terminated by either party by giving thirty (30) days written notice to the other, before the effective date of termination (the "Termination Date"). In the event of such termination, the CONTRACTOR shall be paid for all Services rendered prior to the Termination Date, provided the CONTRACTOR shall have delivered to COUNTY such statements, accounts, reports and other materials as required under this Contract; however, CONTRACTOR shall not be compensated for any anticipatory profits that have not been earned as of the date of the Termination Date. All Services completed by CONTRACTOR prior to the Termination Date shall be documented and tangible work documents shall be transferred to and become the sole property of the COUNTY prior to payment for the Services rendered.

d. Notwithstanding the above or any section herein to the contrary, CONTRACTOR shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of any breach of the Contract by

CONTRACTOR and the COUNTY may withhold any payments to CONTRACTOR for the purpose of setoff until such time as the exact amount of damages due the COUNTY from CONTRACTOR is determined.

6. COMPENSATION FOR CORRECTIONS

No compensation shall be due or payable to CONTRACTOR pursuant to this Contract for any Contractor's Services performed by the CONTRACTOR in connection with effecting of corrections to the design of the Services, when such corrections are required as a direct result of negligence by the CONTRACTOR to properly fulfill any of his obligations as set forth in this Contract.

7. SUBCONTRACTING, ASSIGNMENT OR TRANSFER

a. Any subcontracting, assignment, delegation or transfer of all or part of the rights, responsibilities, or interest of either party to this Contract is prohibited unless by written consent of the other party. No subcontracting, assignment, delegation or transfer shall relieve the CONTRACTOR from performance of the Services under this Contract. The COUNTY shall not be responsible for the fulfillment of the Contractor's obligations to its transferors or subcontractors.

b. Upon the request of the other party, the subcontracting, assigning, delegating or transferring party shall provide all documents evidencing the subcontract, assignment, delegation or transfer.

8. CONFLICT OF INTEREST

The CONTRACTOR covenants that it has no public or private interest, and will not acquire directly or indirectly any interest, which would conflict in any manner with the performance of the Services. The CONTRACTOR warrants that no part of the total Contract Fee shall be paid directly or indirectly to any officer or employee of the COUNTY as wages, compensation, or gifts in exchange for acting as officer, agent, employee, subcontractor or consultant to the CONTRACTOR in connection with any work contemplated or performed relative to this Contract.

9. CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the COUNTY will have the right to recover the full amount of such fee, commission, percentage, brokerage fee, gift, or other consideration.

10. EMPLOYMENT OF COUNTY WORKERS

The CONTRACTOR will not engage, on a full, part-time, or any other basis during the Term of the Contract, any professional or technical personnel who are or have been at any time during the Term of the Contract in the employ of the COUNTY.

11. ACCESS TO RECORDS

During all phases of the work and Services to be provided hereunder, CONTRACTOR agrees to permit duly authorized agents and employees of the COUNTY to enter Contractor's offices for the purpose of inspections, reviews, and audits during normal working hours. Reviews may also be accomplished at meetings that are arranged at mutually agreeable times and places. The CONTRACTOR will maintain all books, documents, papers, accounting records, and other evidence pertaining to the Fee paid under this Contract and make such materials available at their offices at all reasonable times during the Term of this Contract and for three (3) years from the date of payment under this Contract for inspection by the COUNTY or by any other governmental entity or agency participating in the funding of this Contract, or any authorized agents thereof. Copies of said records shall be furnished to the COUNTY upon request.

12. ARBITRATION

Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the CONTRACTOR and the COUNTY will be referred to the Shelby County Contract Administrator or its duly authorized representative, whose decision regarding same will be final.

13. RESPONSIBILITIES FOR CLAIMS AND LIABILITIES

- a. CONTRACTOR shall indemnify, defend, save and hold harmless the COUNTY, and its elected officials, officers, employees, agents, assigns, and instrumentalities from and against any and all claims, liability, losses or damages—including but not limited to Title VII and 42 USC 1983 prohibited acts—arising out of or resulting from any conduct; whether actions or omissions; whether intentional, unintentional, or negligent; whether legal or illegal; or otherwise that occur in connection with or in breach of this Contract or in the performance of the Services hereunder, whether performed by the CONTRACTOR its subcontractors, agents, employees or assigns. This indemnification shall survive the termination or conclusion of this Contract.
- b. CONTRACTOR expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the CONTRACTOR shall in no way limit the responsibility to indemnify, defend, save and hold harmless the COUNTY or its elected officials, officers, employees, agents, assigns, and instrumentalities as herein provided.
- c. The COUNTY has no obligation to provide legal counsel or defense to CONTRACTOR or its subcontractors in the event that a suit, claim or action of any character is brought by any person not a party to this agreement against CONTRACTOR as a result of or relating to performance of the Services under this Contract.
- d. Except as expressly provided herein, the COUNTY has no obligation for the payment of any judgment or the settlement of any claims against CONTRACTOR as a result of or relating to performance of the Services under this Contract.
- e. CONTRACTOR shall immediately notify the COUNTY of any claim or suit made or filed against CONTRACTOR or its subcontractors regarding any matter resulting from or relating to Contractor's performance of the Services under this Contract and will cooperate, assist and consult with the COUNTY in the defense or investigation thereof.

14. GENERAL COMPLIANCE WITH LAWS

- a. The CONTRACTOR certifies that it is qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of the Services under this Contract.
- b. The CONTRACTOR is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the performance of the Services. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety and Health Administration (OSHA) requirements, and the Americans with Disabilities Act (ADA).
- c. This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this Contract, the CONTRACTOR agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this Contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this Contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

15. NON-DISCRIMINATION

The CONTRACTOR hereby agrees, warrants, and assures compliance with the provisions of Title VI and VII of the Civil Rights Act of 1964 and all other federal statutory laws which provide in whole or in part that no person shall be excluded from participation or be denied benefits of or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the CONTRACTOR on the grounds of handicap and/or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee State Constitutional or statutory law. The CONTRACTOR shall upon request show proof of such non-discrimination and shall

post in conspicuous places available to all employees and applicants notices of non-discrimination.

16. ENTIRE AGREEMENT

This Contract represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations or agreements, whether oral or written.

17. AMENDMENT

This Contract may be modified or amended only by written instrument signed by both parties.

18. SEVERABILITY

If any provision of this Contract is held to be unlawful, invalid or unenforceable under any present or future laws, such provision shall be fully severable; and this Contract shall then be construed and enforced as if such unlawful, invalid or unenforceable provision had not been a part hereof. The remaining provisions of this Contract shall remain in full force and effect and shall not be affected by such unlawful, invalid or unenforceable provision or by its severance here from. Furthermore, in lieu of such unlawful, invalid, or unenforceable provision, there shall be added automatically as a part of this Contract a legal, valid and enforceable provision as similar in terms to such unlawful, invalid or unenforceable provision as possible.

19. NO WAIVER OF CONTRACTUAL RIGHT

No waiver of any term, condition, default, or breach of this Contract, or of any document executed pursuant hereto, shall be effective unless in writing and executed by the party making such waiver; and no such waiver shall operate as a waiver of either (a) such term, condition, default, or breach on any other occasion or (b) any other term, condition, default, or breach of this Contract or of such document. No delay or failure to enforce any provision in this Contract or in any document executed pursuant hereto shall operate as a waiver of such provision or any other provision herein or in any document related hereto. The enforcement by any party of any right or remedy it may have under this Contract or applicable law shall not be deemed an election of remedies or otherwise prevent such party from enforcement of one or more other remedies at any time.

20. MATTER TO BE DISREGARDED

This title of the several sections, subsections, and paragraphs set forth in this Contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Contract.

21. SUBJECT TO FUNDING

This Contract is subject to annual appropriations of funds by the Shelby County Government. In the event sufficient funds for this Contract are not appropriated by Shelby County Government for any of its fiscal period during the Term hereof, then this Contract will be terminated. In the event of such termination, the CONTRACTOR shall be entitled to receive just and equitable compensation for any satisfactory work performed as of the Termination Date.

22. TRAVEL EXPENSES (If Applicable)

All travel expenses payable under this Contract shall be in accordance with the County Travel Policy and Procedures. This includes advance written travel authorization, submission of travel claims, documentation requirements, and reimbursement rates. No travel advances will be made by the County.

23. PERFORMANCE AND LABOR AND MATERIALS BONDS

CONTRACTOR will provide COUNTY within ten (10) days from inception date of this Contract a Performance and Labor and Materials Bond each in the amount of 100% of the Contract price for each year that this contract is in effect. Said Bonds may be pro-rated for the initial year in the event that this period of time is less than a full twelve (12) month period.

24. NON-LIABILITY FOR CONTRACTOR EMPLOYEE TAXES

Neither CONTRACTOR nor its personnel are County's employees, and COUNTY shall not take any action or provide Contractor's personnel with any benefits and shall have no liability for the following:

- a. Withholding FICA (Social Security) from Contractor's payments;

- b. Making state or federal unemployment insurance contributions on behalf of CONTRACTOR or its personnel;
- c. Withholding state and federal income tax from payment to CONTRACTOR;
- d. Making disability insurance contributions on behalf of CONTRACTOR;
- e. Obtaining workers' compensation insurance on behalf of CONTRACTOR or Contractor's personnel.

25. INCORPORATION OF OTHER DOCUMENTS

- a. CONTRACTOR shall provide Services pursuant to this Contract in accordance with the terms and conditions set forth within the Shelby County Request for Proposals/Bids as well as the Response of CONTRACTOR thereto, all of which are maintained on file within the Shelby County Purchasing Department and incorporated herein by reference.
- b. It is understood and agreed between the parties that in the event of a variance between the terms and conditions of this Contract and any amendment thereto and the terms and conditions contained either within the Request for Proposals/Bids or the Response thereto, the terms and conditions of this Contract as well as any amendment shall take precedence and control the relationship and understanding of the parties.

26. CONTRACTING WITH LOCALLY OWNED SMALL BUSINESSES

The CONTRACTOR shall take affirmative action to assure that Locally Owned Small Businesses that have been certified by the COUNTY are utilized when possible as sources of supplies and equipment, construction and services.

27. RIGHT TO REQUEST REMOVAL OF Contractor's EMPLOYEES

The COUNTY may interview the personnel CONTRACTOR assigns to County's work. COUNTY shall have the right, at any time, to request removal of any employee(s) of CONTRACTOR, whom COUNTY deems to be unsatisfactory for any reason. Upon such request, CONTRACTOR shall use all reasonable efforts to promptly replace such employee(s) with substitute

employee(s) having appropriate skills and training.

28. INCORPORATION OF WHEREAS CLAUSES

The foregoing whereas clauses are hereby incorporated into this Contract and made a part hereof.

29. DISCLOSURE OF REPORTS, DATA OR OTHER INFORMATION

Notwithstanding anything to the contrary contained herein or within any other document supplied to COUNTY by CONTRACTOR, CONTRACTOR understands and acknowledges that COUNTY is a governmental entity subject to the laws of the State of Tennessee and that any reports, data or other information supplied to COUNTY by CONTRACTOR due to Services performed pursuant to this Contract is subject to being disclosed as a public record in accordance with the laws of the State of Tennessee.

30. ORGANIZATION STATUS AND AUTHORITY

a. CONTRACTOR represents and warrants that it is a corporation, limited liability company, partnership, or other entity duly organized, validly existing and in good standing under the laws of the state of Tennessee; it has the power and authority to own its properties and assets and is duly qualified to carry on its business in every jurisdiction wherein such qualification is necessary.

b. The execution, delivery and performance of this Contract by the CONTRACTOR has been duly authorized by all requisite action and will not violate any provision of law, any order of any court or other agency of government, the organizational documents of CONTRACTOR, any provision of any indenture, agreement or other instrument to which CONTRACTOR is a party, or by which Contractor's respective properties or assets are bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets.

31. INSURANCE REQUIREMENTS

a. The CONTRACTOR shall purchase and maintain, in a

company or companies licensed to do business in the State of Tennessee, such insurance as will protect the County from claims which may arise out of or result from the Contractor's operations under the Contract, whether such operations are performed by himself or by any subcontractors or by anyone directly or indirectly employed by any of them, or by anyone for whose acts the CONTRACTOR or subcontractor may be liable.

b. The insurance required shall be written for not less than any limits of liability specified or required by law, whichever is greater. Shelby County Government, its elected officials, appointees and employees will be named as additional insured. All policies will provide for thirty (30) days written notice to COUNTY of cancellation or material change in coverage provided. The Contractor shall immediately notify Shelby county Government, Contract Administration, 160 N. Main Street, Suite 550, Memphis, Tennessee of cancellation or changes in any of the insurance coverage required. The CONTRACTOR will maintain throughout the life of this Contract insurance, through insurers rated A- or better by A.M. Best, in the following minimum requirements:

i) Commercial General Liability Insurance- \$1,000,000.00 limit per occurrence for bodily injury and property damage/\$1,000,000.00 personal and advertising injury/\$2,000,000.00 General Aggregate/\$2,000,000.00 Products-Completed Operations Aggregate. Shelby County Government, its elected officials, appointees, employees, volunteers, and members of boards, agencies, and commissions will be listed as additional insured regarding operations under this program. The insurance shall include coverage for the following:

- a) Premises/Operations
- b) Products/Completed Operations
- c) Personal Injury
- d) XCU coverage, where applicable
- e) Contractual Liability
- f) Independent Contractors
- g) Broad Form Property Damage
- h) When contract is awarded, the Contractor

will
copy

be required to provide the County with a
of the additional insured endorsement.

- ii) Business Automobile Liability Insurance - \$1,000,000.00 each accident for bodily injury and property damage. Coverage is to be provided on all:
 - a) Owned/Leased Autos
 - b) Non-owned Autos
 - c) Hired Autos
- iii) Workers Compensation and Employer's liability Insurance - All owners, sole proprietors, partners, and officers will elect to be covered by workers compensation coverage, regardless of requirement by Tennessee state status. Policy is to be specifically endorsed to include these individuals for coverage. Coverage is to include:
 - a. Employers Liability Coverage for \$1,000,000 per accident;
 - b. Employers Liability Disease each employee \$1,000,000; and
 - c. Employers Liability Disease Policy Limit \$1,000,000

Note: The Contractor's workers compensation policy will include the following endorsement: WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT: (form WC 00 03 13) A completed copy of this form will be included in documents provided to Shelby County Government by Provider's insurance company.

- iv) Builders Risk Insurance or Installation Floater (as applicable) for project. - All risk coverage in the amount of replacement cost of the structure/equipment, which is to be built or installed.
- c. CONTRACTOR shall provide County with a current copy of the Certificate of Insurance at the time of contracting and shall maintain said insurance during the entire Contract period as well as provide renewal copies on each anniversary date. The certificate

holder is to read:

Shelby County Government
Purchasing Department
160 N. Main, Suite 550
Memphis, TN 38103

d. Self insured retentions or deductibles of \$25,000 or over per loss or claims must be reviewed and agreed to by Shelby County Government prior to commencement of work under this program.

All policies will provide for 30 day written notice to Shelby County of cancellation of coverage provided. Ten (10) days notice applicable to non-payment of premium. If insurer is not required by the policy terms and conditions to provide written notice of cancellation to Shelby County, the Contractor//Contractor will provide immediate notice to Shelby County.

32. NOTICE

Any notices required or permitted to be given under the provisions of this Contract shall be effective only if in writing and delivered either in person to the County's authorized agent or by First Class or U.S. Mail to the addresses set forth in the Contract, or to such other person or address as either party may designate in writing and deliver as herein provided.

33. HIPAA (If applicable)

CONTRACTOR warrants to the COUNTY and State that it is familiar with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract. CONTRACTOR warrants that it will cooperate with the COUNTY and State in the course of performance of the Contract so that all parties will be in compliance with HIPAA, including cooperation and coordination with COUNTY and State privacy officials and other compliance officers required by HIPAA and its regulations. CONTRACTOR will sign any documents that are reasonably necessary to keep the State and the COUNTY in compliance with HIPAA, including, but not limited to, business associate agreements.

It is agreed that the following documents are made a part of and incorporated fully into this construction Contract:

1. Performance Bond
2. Labor and Material Bond
3. Insurance Certificate
4. Bid Specifications (SB #_____, _____)
5. Contractor's Bid/Proposal (Exhibit "A")
6. General Conditions to Contract (Exhibit "B")
7. List of subcontractors who will be performing work on project with attached required information per Exhibit "C"

NOTE: THE ABOVE DOCUMENTS MUST BE ATTACHED BEFORE EXECUTION OF THIS AGREEMENT BY SHELBY COUNTY.

SECTION 01 11 13
SUMMARY OF THE WORK

PART 1 – GENERAL

1.1 SECTION INCLUDES

- A. Project Summary
- B. Contractor's Use of Site and Premises
- C. Owner Occupancy
- D. Contracts
- E. Additive Alternates

1.2 PROJECT SUMMARY

A. The "Project," of which the "Work" of this Contract is a part, is titled the Roof Replacement of the Shelby County Library. It includes the complete removal to the existing roof deck and the disposal of the existing roofing system, inclusive of flashings, rooftop insulation, other related work as indicated in the drawings and specifications, and the installation of a new SBS hot mopped modified bitumen roofing system, and other related work.

The Project address is 7200 East Shelby Drive, Memphis, TN 38125.

B. The "Work" of this Contract is defined in the Contract Documents to include the entire Project, inclusive of any Owner Selected Additive Alternates. The General Conditions of the Contract for construction, AIA Document A201-2007 edition are made a part of this Project Manual as if fully included herein.

C. Related work:

1. Documents affecting work of this Section include, but are not necessarily limited to, the General Conditions of the Contract for construction, AIA Document A201-2007 edition, other Administrative Sections included in Division 0 and Division 1 of these Specifications, together with all technical divisions of the Specifications and the Contract Document Drawings (Reference Section 00 01 10 Table of Contents and 00 01 15 List of Drawings).

It is the Contractors' responsibility to familiarize themselves with these documents prior to submitting a bid for the Work.

1.3 CONTRACTOR'S USE OF SITE AND PREMISES

A. Limit use of site and premises to allow:

- 1. Uninterrupted Owner occupancy and use of the facility.
- 2. Use of site and premises by the public.
- 3. Unobstructed public paths of egress connecting the building to parking areas.
- 4. Unobstructed fire lanes, fire hydrants, and emergency vehicle access ways.

B. Before beginning work, the roofing contractor must secure approval from the Architect for the following:

- 1. Areas permitted for personnel parking.

2. Access to the site.
3. Areas permitted for storage of materials and debris.
4. Areas permitted for the location of cranes, hoists and chutes for loading and unloading materials to and from the roof.

C. Interior stairs or elevators may not be used for removing debris or delivering materials, except as authorized by the Architect.

1.4 OWNER OCCUPANCY

- A. The Owner will occupy the premises during the entire period of construction.
- B. Cooperate with Owner to minimize conflict, and to facilitate Owner's operations.
- C. Schedule the Work to accommodate Owner occupancy.
- D. Utilities may not be disrupted at any time during the project duration.

1.5 CONTRACTS

A. Basis of the Contract for Construction will be Competitive Bid (Base Bid Amount with ten percent (10%) Construction Contingency in addition to the Base Bid amount for a total combined Lump Sum Amount).

B. **Contractor Qualifications:** The Prime Contractor will be a licensed Roofing Contractor in the State of Tennessee with a B-21 license designation, or be a licensed General Contractor in the State of Tennessee with a BC or BC-B license designation who sub contracts with a Roofing Subcontractor with a B-21 license designation. In either case the Prime Contractor will be an organization that is approved, authorized, or licensed by the roofing system manufacturer to install manufacturer's product and that is eligible to receive manufacturer's warranty and can provide evidence of having a minimum of five years successful experience installing SBS hot mopped modified bitumen roof system in accordance with these specifications and has installed at least one roofing application of similar size and complexity within the past year. Submit a letter of certification from the manufacturer which certifies the roofing contractor is authorized to install the manufacturer's roofing system and lists the foreman for this project who is experienced in installing the roof as it is specified.

1.6 ADDITIVE ALTERNATES

There are no Additive Alternates.

PART 2 – PRODUCTS (Not Used.)

PART 3 – EXECUTION(Not Used.)

END OF SECTION

SECTION 01 11 20
SHELBY COUNTY GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

1.01 GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

A. The Shelby County General Conditions of the Contract for Construction are made a part of the Project Manual.

1. The Contractor, his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor shall be bound by these General Conditions as if repeated in each Section of this Project Manual.
2. The failure on the part of the Contractor to familiarize himself or examine these Documents will in no way relieve him or her of their responsibilities and conditions set forth herein.

END OF SECTION

**SHELBY COUNTY GENERAL CONDITIONS OF THE
CONTRACT FOR CONSTRUCTION**

Rev. 5/24/99

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GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

ARTICLE I CONTRACT DOCUMENTS

1.1 Definitions

1.1.1 The Contract Documents

The Contract Documents consist of the Owner-Contractor Agreement, the conditions of the Contract (General, Supplementary and other conditions), the Drawings, the Specifications, and all Addenda issued prior to and all modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a written interpretation issued by the Architect pursuant to Subparagraph 2.2.8, or (4) a written order for a minor change in the Work issued by the Architect pursuant to Paragraph 12.3. The Contract Documents include Bidding Documents such as the Advertisement or invitation to Bid, the Instructions to Bidders, sample forms, the Contractor's Bid, or portions of Addenda relating to any of these, and other documents specifically enumerated in the Owner-Contractor Agreement.

1.1.2 The Contract

The Contract Documents form the Contract for Construction. This Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification as defined in Subparagraph 1.1.1. The Contract Documents shall not be construed to create any contractual relationship of any kind between the Architect and the Contractor, but the Architect shall be entitled to performance of obligations intended for his benefit, and to enforcement thereof. Nothing contained in the Contract Documents shall create any contractual relationship between the Owner or the Architect or any Subcontractor or sub-subcontractor.

1.1.3 The Work

The Work comprises the completed construction required by the contract Documents and includes all labor necessary to produce such construction, and all materials and equipment incorporated or to be incorporated in such construction.

1.1.4 The Project

The Project is the total construction of which the Work performed under these Contract Documents may be the whole or a part.

1.2 Execution Correlation and Intent

1.2.1 The Contract Documents shall be signed in not less than four originals by the Owner and Contractor. If either Owner or Contractor or both do not sign the Conditions of the Contract, Drawings, Specifications, or any of the other Contract Documents, the Architect shall identify such Documents.

1.2.2 By executing the Contract, the Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Work not specifically set forth in the Contract Documents will not be required unless it is consistent with work that is specifically set forth in the Contract Documents or is reasonably inferable from the Contract Documents as being necessary to produce the intended results. Words and abbreviations, which have well-known technical or trade meanings, are used in the Contract Documents in accordance with such recognized meanings.

1.2.4 The organization of the Specifications into divisions, sections, and articles, and the arrangement of Drawings shall not control the Contractor in dividing the Work among Sub-contractors or in establishing the extent of Work to be performed by any trade.

1.3 Ownership and Use of Documents

1.3.1 All Drawings, Specifications, and copies thereof furnished by the Architect are the property of the Owner. They are to be used only with respect to this Project and are not to be used on any other project. With the exception of one contract set for each party to the Contract, such documents are to be returned or suitably accounted for to the Architect on request

at the completion of the Work. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's common law copyright or other reserved rights. The Architect will furnish, free of charge, to

Initial _____

the Contractor sufficient sets of Contract Documents to execute the Work not to exceed ten (10). The Contractor may purchase additional sets by paying reproduction costs.

ARTICLE II ARCHITECT

2.1 Definition

2.1.1 The Architect is the person lawfully licensed to practice Architecture, or any entity lawfully practicing Architecting identified as such in the Owner-Contractor Agreement, and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Architect means the Architect or his authorized representative.

2.2 Administration of the Contract

2.2.1 The Architect will provide administration of the Contract as hereinafter described.

2.2.2 The Architect will be the Owner's representative during construction and until final payment is due. The Architect will advise and consult with the Owner. The Owner's instructions to the Contract shall be forwarded through the Architect. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument signed by the Owner.

2.2.3 The Architect will visit the site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of his on-site observations as an Architect, he will keep the Owner informed of the progress of the Work, and will endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor.

2.2.4 The Architect will not be responsible for and will not have control or charge of construction means, methods, techniques or procedures, or for safety precautions and programs in connection with the Work, and he will not be responsible for

the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Architect will not be responsible for or have control or charge over the acts or omissions of the Contractor, Subcontractors, or any of their agents or employees, or any other persons performing any of the Work.

Initial _____

2.2.5 The Architect shall at all times have access to the Work wherever it is in preparation and progress. The Contractor shall provide facilities for such access so the Architect may perform his functions under the contract documents.

2.2.6 Based on the Architects observations and an evaluation of the Contractor's Applications for Payment, the Architect will determine the amounts owing to the Contractor and will issue Certificates for Payment in such amounts as provided in Paragraph 9.4.

2.2.7 The Architect will render interpretations necessary for the proper execution or progress of the Work, with reasonable promptness and in accordance with any time limit agreed upon so as to cause no delay the Project. Either party to the Contract may make written request to the Architect for such interpretations.

2.2.8 All interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings.

2.2.9 The Architects decision in matters relating to artistic effect will be final if consistent with the intent of the Contract Documents. The Architect shall rule on all claims and disputes that relate to the interpretation of the Contract Documents.

2.2.10 The Architect will have authority to reject Work, which does not conform to the Contract Documents. Whenever, in his opinion, he considers it necessary or advisable for the implementation of the intent of the Contract Documents, he will have authority to require special inspection or testing of the Work in accordance with Subparagraph 7.7.2 whether or not such Work is then fabricated, installed or completed. In the event the Architect determines that any Work deleted by the Contractor should have been performed by the Contractor under the Contract Documents, he shall issue a final determination that the Contractor shall proceed with the Work as directed by the Architect, and the Contractor shall proceed with the Work even if he is in disagreement with the decision of the Architect.

2.2.11 The Architect will review and approve or take other appropriate action under Contractor's submittals such as Shop

Drawings, Product Data, and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Architects approval of a specific item shall not indicate approval of an assembly of which the item is a component.

Initial _____

2.2.12 The Architect will prepare Change Orders in accordance with Article 12 and will have the authority to order minor changes in the Work as provided in Subparagraph 12.3.

2.2.13 The Architect will conduct inspections to determine the dates of Substantial Completion and completion will receive and forward to the Owner for the Owner's review written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a Final Certificate for Payment upon compliance with the requirements of Paragraph 9.8.

ARTICLE III OWNER

3.1 Definition

3.1.1 The Owner is the person or entity identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Owner means the Owner, or his authorized representative.

3.2 Information and Services Required of the Owner

3.2.1 The Owner or Architect shall furnish all surveys describing the physical characteristics, legal limitations, and utility locations for the site of the Project, and a legal description of the site.

3.2.2 Except as provided in Subparagraph 4.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

3.2.3 Information or services under the Owner control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the Work.

3.2.4 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, all copies of Drawings and Specifications reasonably necessary for the execution of the Work.

3.2.5 The foregoing are in addition to other duties and

responsibilities of the Owner enumerated herein and especially those in respect to Work by Owner or by Separate Contractors, Payments and Completion and Insurance in Article 6, 9 and 11, respectively.

Initial _____

3.3 Owner Right to Stop the Work

3.3.1 If the Contractor fails to correct defective Work as required by Paragraph 13.2 or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity. Any such order to the Contractor shall be in writing.

3.4 Owner Right to Carry Out the Work

3.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within two (2) days after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to any other remedy it may have, make good and correct such deficiencies with its own forces or with the forces of another contractor. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Architect additional services made necessary by such default, neglect, or failure. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

3.4.2 The Owner shall have access to the Project at all times.

ARTICLE IV **CONTRACTOR**

4.1 Definition

4.1.1 The Contractor is the person or entity identified as such in the Owner-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term Contractor means the Contractor or his authorized representative.

4.2 Review of Contract Documents

4.2.1 The Contractor shall carefully study and compare the Contract Documents and shall at once report to the Architect any error, inconsistency or omission he may discover.

Initial _____

4.3 Supervision and Construction Procedures

4.3.1 The Contractor shall supervise and direct the Work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under the Contract.

4.3.2 The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor.

4.3.3 The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents by either the activities or duties of the Architect in his administration of the Contract, or by inspection, tests, or approvals required or performed under Paragraph 7.7 by persons other than the Contractor.

4.4 Labor and Materials

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

4.4.2 The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him.

4.4.3 When a material, equipment, or system is specified or approved in an addendum, by the name of one or more manufacturers, such material, equipment, or system shall form the basis of the contract. If Contractor desires to use another material, equipment, or system in lieu thereof, he shall request approval in writing and shall submit samples and data as required for the Architect's consideration. The Architect and Owner will be the final judge for the acceptance or the substitution. No Substitution shall be made without authority in writing from the Architect.

4.4.4 By making requests for substitutions based on Subparagraph 4.4.3 above, the Contractor:

Initial _____

- .1 represents that he has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified;
- .2 represents that he will provide the same warranty for the substitute that is required by the Contract Documents for that specified.
- .3 certifies that the cost data presented is complete and includes all related costs and excludes the Architect's redesign costs, and waives all claims for additional costs related to the substitution which subsequently became apparent; and
- .4 will coordinate the installation of the accepted substitute, making such changes at no additional cost to Owner as may be required for the Work to be complete in all respects.

4.4.5 The General Contractor shall disclose the existence and extent of financial interests, whether direct or indirect, he has in subcontractors and material suppliers, which he may propose for this Project.

4.5 Warranty

4.5.1 The Contractor warrants to the Owner and the Architect that all materials and equipment furnished under this Contract will be new unless otherwise specified, and all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and requirements including substitutions not properly approved and authorized, may be considered defective. If required by the Architect, the Contractor shall furnish satisfactory evidence. This warranty is not limited by the provisions of Paragraph 13.2.

4.6 Taxes

4.6.1 The Contractor shall pay all sales, consumer, use and other similar taxes for the Work or portions thereof provided by the Contractor, which are legally enacted at the time bids, are received, whether or not yet effective.

Initial _____

4.7 Permits, Fees, and Notices

4.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and for all other permits and governmental fees, licenses and inspections necessary for the proper execution of the Contract.

4.7.2 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the performance of the Work.

4.7.3 If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Architect, he shall assume full responsibility therefore and shall bear all costs attributable thereto.

4.8 Allowances and Owner Furnished Equipment, Fixtures or Labor

4.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by these allowances shall be supplied for such amounts and by such persons as the Owner may direct, but the Contractor will not be required to employ persons against whom he makes a reasonable objection.

4.8.2 Unless otherwise provided in the Contract Documents:

- .1 these allowances shall cover the cost to the Contractor, less any applicable trade discount, of the materials and equipment required by the allowance delivered at the site, and applicable taxes;
- .2 the Contractor's costs for unloading and handling on the site, labor, installation costs, overhead, profit and other expenses contemplated for the original allowance shall be included in the Contract Sum and not in the allowance;
- .3 whenever the cost is more than or less than the allowance, the Contract Sum shall be adjusted accordingly by Change Order, the amount of which will recognize changes, if any, in handling costs on the site, labor, installation costs, overhead, profit and other expenses.

Initial _____

4.8.3 The Owner may directly furnish any or all of the

equipment, fixtures, or labor required for the Project. In the event the Owner elects to do so, the Contract Price for such equipment, fixtures, or labor will be reduced by the amount for equipment of labor being furnished by Owner. A Change Order reducing the Contract Price for that item of work shall be executed by Owner and Contractor to reflect a reduction in the Contract Price for that item, equipment, fixtures or work that the Owner is to furnish. The Contractor shall assume responsibility for and be fully responsible for the care, custody, and control of all Owner furnished equipment and/or fixtures once said equipment or fixtures arrive on the job site or in any approved off site storage facility.

4.9 Superintendent

4.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor and shall be confirmed in writing.

4.10 Documents and Samples at the Site

4.10.1 The Contractor shall maintain at the site for the Owner, one record copy of all Drawings, Specifications, Addenda, Change Orders, and other Modifications, in good order and marked currently to record all changes made during construction and approved Shop Drawings, Product Data and Samples. These shall be available to the Architect and shall be delivered to him for the Owner upon completion of the Work.

4.11 Shop Drawings, Product Data, and Samples

4.11.1 Shop Drawings are drawings, diagrams, schedules, and other data specifically prepared for the Work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

4.11.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate a material, product, or system for some portion of the Work.

Initial _____

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

4.11.4 The Contractor shall review, approve and submit, with reasonable promptness and in such sequence as to cause no delay

in the Work or in the work of the Owner or any separate contractor, all Shop Drawings, Product Data and Samples required by the Contract Documents.

4.11.5 By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and the Contract Documents.

4.11.6 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Architects approval of Shop Drawings, Product Data or Samples under Subparagraph 2.2.11, unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submission and the Architect has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data, or Samples by the Architect approval thereof.

4.11.7 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, or Samples, to revisions other than those requested by the Architect on previous submittals.

4.11.8 No portion of the Work requiring submission of a Shop Drawing, Product Data, or Sample shall be commenced until the submittal has been approved by the Architect as provided in Subparagraph 2.2.11. All such portions of the Work shall be in accordance with approved submittals.

4.12 Use of Site

4.12.1 The Contractor shall confine operations at the site to areas permitted by law, ordinance, permits and the Contract Documents and shall not unreasonably encumber the site with any materials or equipment.

4.13 Cutting and Patching of Work

4.13.1 The Contractor shall be responsible for all cutting,

Initial _____

fitting or patching that may be required to complete the Work or to make its several parts fit together properly.

4.13.2 The Contractor shall not damage or endanger any portion of the Work or the work of the Owner or any separate contractors by cutting, patching or otherwise altering any work,

or by excavation. The Contractor shall not cut or otherwise alter the work of the Owner or any separate contractor except with the written consent of the Owner. The Contractor shall not unreasonably withhold from the Owner his consent to cutting or otherwise altering the Work.

4.14 Cleaning Up

4.14.1 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of the Work, he shall remove all his waste materials and rubbish from and about the project as well as all his tools, construction equipment, machinery and surplus materials.

4.14.2 If the Contractor fails to clean up at the completion of the Work, the Owner may do so as provided in Paragraph 3.4 and the cost thereof will be charged to the Contractor.

4.15 Royalties, Patents, and Records

4.15.1 The Contractor shall pay all royalties and license fees. He shall defend all suits and claims for infringement of any patent rights and shall save Owner and Architect harmless from loss on account thereof.

4.15.2 The Contractor shall not discriminate against any subcontractor, employee, or applicant for employment on the grounds of race, color, national origin, or sex.

4.15.3 The Contractor and all subcontractors under the general contract shall maintain copies of every sub-payroll period for the life of the construction contract and for a period of three (3) years after final release and payment is made by the Owner to the Contractor.

4.15.4 Each Contractor request for payment, including final payment and each partial payment, if permitted by the contract, shall contain a certification by the Contractor that performance by the Contractor and his subcontractor for the period of work covered by the payment request has been in accordance with the contract clauses and requirements with respect to nondiscrimination.

4.15.5 Representatives of Shelby County, as designated by the Mayor, shall have the right to inspect the Contractor's facilities and payroll records during the term of the construction contract and for a period of three (3) years after final release and final payment by the Owner for the purposes of verifying nondiscrimination in employment.

Initial _____

4.15.6 The Contractor shall incorporate the same requirements set forth in Subparagraph 5.3.1 in all Subcontracts awarded by him with the further requirement that each Subcontract include identical requirements to be included in any lower tier Subcontracts together with the requirement to include it in any further subcontracts that might be made.

4.16 Indemnification

4.16.1 (a) By executing this Agreement, the Contractor assumes the entire responsibility and liability for any and all claims, damage or injury of any kind or nature (including death) to all persons, whether employees of the Contractor or otherwise, and to all property (including but not limited to the replacement cost and loss of use of property), caused by, resulting from, arising out of, or occurring in connection with the performance of the Work by the Contractor, its agents, servants, employees, or subcontractors or anyone directly or indirectly employed by any of them for whose acts any of them may be liable.

(b) If any claim is made against the Owner for any damage, injury, death, or loss, whether such claim is based upon the Contractor or its agents, servants, employees, or subcontractors alleged active or passive negligence or participation in the wrong, or upon any alleged active or passive negligence or participation in the wrong, or upon any alleged breach of any statutory duty or obligation on the part of the Contractor, its agents, servants, employees or subcontractors, or in any other instance for which the Contractor has assumed responsibility in this Agreement, the Contractor shall indemnify, defend, and hold harmless the Owner, its officers, directors, agents, servants and employees from and against any and all loss, expense, judgment, damage or injury (including attorney's fees and expenses) that the Owner or its officers, directors, agents, servants or employees may sustain as the result of any such claim. The Contractor shall assume on behalf of the Owner, its officers, directors, agents, servants and employees the defense of any action at law or in equity which may be brought against any of them upon any such claim, and shall pay on behalf of them the amount of any judgment with any costs or expenses incurred by any of them in connection with such claim.

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4.16.2 Labor Indemnity

4.16.2.1 The Contractor shall indemnify, defend and hold harmless the Owner from any and all administrative and judicial actions (including reasonable attorney's fees related to any such

action) incurred by the Owner in connection with any labor related activity arising from the performance of the Work of the Contractor. As used in this Agreement, labor related activity includes, but is not limited to strikes, walkouts, informational or organizational picketing, use of placards, distribution of handouts, leaflets or in the vicinity of any facility where the Owner conducts business. The Owner shall advise the contractor if any labor related activity occurs and the Contractor shall arrange for the legal representation necessary to protect the Owner, provided such representation is previously approved by the Owner.

4.16.3 Attorney Fees

4.16.3.1 In the event it becomes necessary for Owner to employ an attorney to enforce any provision of this Agreement, then the Contractor shall be liable for all attorney's fees and litigation expense of Owner.

4.17 Progress Schedule

4.17.1 The Contractor shall, within five (5) days from receipt of the Notice to Proceed, prepare and submit for the Owner and Architect an estimated project schedule for the Work. The Progress Schedule shall be updated each month to reflect actual progress made and to forecast future progress of the Work. The Progress Schedule shall be related to the entire Project as provided by the contract Documents and shall provide for expeditious and practicable execution of the Work. The Owner reserves the right to reasonably reschedule the Work or the sequence of activities of the contractor for no additional compensation should it deem rescheduling to be in its best interest.

ARTICLE V **SUBCONTRACTORS**

5.1 Definition

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized

representative. The term Subcontractor does not include any separate contractor or his subcontractor.

Initial _____

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

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

5.2.1 Unless otherwise required by the Contract Documents or Bidding Documents, the Contractor, as soon as practicable after the award of the Contract, shall furnish to the Owner and the Architect in writing the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work. The Architect will promptly reply to the Contractor in writing stating whether or not the Owner or the Architect, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the Owner or Architect to reply promptly shall constitute notice of no reasonable objection. No work shall be commenced until approval of all such Subcontractors has been given in writing by the Owner. If required, the Contractor shall furnish evidence satisfactory to the Owner, showing each proposed Subcontractor is competent to execute the Work covered by the Subcontract.

5.2.2 The Contractor shall not contract with any such proposed person or entity to whom the Owner or the Architect has made reasonable objection under the provisions of Subparagraph 5.2.1. The Contractor shall not be required to contract with anyone to whom he has a reasonable objection.

5.2.3 If the Owner or the Architect has reasonable objection to any such proposed person or entity, the Contractor shall submit a substitute to whom the Owner or the Architect has no reasonable objection. Such substitution shall in no way affect the Contract Sum.

5.2.4 The Contractor shall make no substitution for any Subcontractor, person, or entity previously selected if the Owner or Architect makes reasonable objection to such substitution.

5.2.5 The Contractor shall submit a status report with regard to Subcontractors identified on Exhibit C, which forms a part of the Contract Documents, as to any change in the subcontractors identified thereon and the reasons for same, the dollars paid to the prior subcontractor and the amount of the

new subcontract.

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THIS REPORT SHALL BE SUBMITTED TO CONTRACTS ADMINISTRATION OF SHELBY COUNTY GOVERNMENT, 160 N. Main St., Suite 1109, Memphis, Tennessee, 38103.

5.3 Subcontractual Relations

5.3.1 By an appropriate agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner and the Architect. Said agreement shall preserve and protect the rights of the Owner and the Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the Contractor-Subcontractor agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by the Paragraph 5.3, and identify to the Subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to any Sub-subcontractors.

ARTICLE VI WORK BY OWNER OR BY SEPARATE CONTRACTORS

6.1 Owner Right to Perform Work and to Award Separate Contracts

6.1.1 The Owner reserves the right to perform work related to the Project with his own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract.

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

6.2 Mutual Responsibility

6.2.1 The Contractor shall afford the Owner and separate contractor's reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate his Work with theirs as required by the Contract Documents.

6.2.2 If any part of the Contractor's Work depends on proper execution or results in the work of the Owner or any separate contractor, the Contractor shall, prior to proceeding with the Work, promptly report to the Architect any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor to so report shall constitute an acceptance of the Owner's or separate contractor's work as fit and proper to receive his Work.

6.2.3 Should the Contractor wrongfully cause damage to the work or property of the Owner or to other work on the site, the Contractor shall promptly remedy such damage as provided in Subparagraph 10.2.5.

6.2.4 Should the Contractor wrongfully cause damage to the work or property of any separate contractor, the Contractor shall upon due notice promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues the Owner on account of any damage alleged to have been caused by the Contractor, the Owner shall notify the Contractor who shall defend such proceedings, and if any judgment or award against Owner arises there from, the Contractor shall pay or satisfy it and shall reimburse the Owner for all Attorney's fees and Court costs which the Owner has incurred.

6.3 Owner Right to Clean Up

6.3.1 If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up as required by Paragraph 4.14, the Owner may clean up and charge the cost thereof to the contractors responsible therefore as the Owner shall determine to be just.

**ARTICLE VII
MISCELLANEOUS PROVISIONS**

7.1 GENERAL COMPLIANCE WITH LAWS

7.1.1 If required, the Contractor certifies that it is

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qualified or will take steps necessary to qualify to do business in the State of Tennessee and that it will take such action as, from time to time, may be necessary to remain so qualified and it shall obtain, at its expense all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Agreement.

7.1.2 The Contractor is assumed to be familiar with and agrees that at all times it will observe and comply with all federal, state, and local laws, ordinances, and regulations in any manner affecting the conduct of the work. The preceding shall include, but is not limited to, compliance with all Equal Employment Opportunity laws, the Fair Labor Standards Act, Occupational Safety, and Health Administration (OSHA) requirements, and the Americans with Disabilities Act (ADA).

7.1.3 This Contract will be interpreted in accordance with the laws of the State of Tennessee. By execution of this contract the Contractor agrees that all actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation and enforcement of this contract will be instituted and litigated in the courts of the State of Tennessee, located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this contract submit to the jurisdiction of the courts of the State of Tennessee located in Shelby County, Tennessee.

7.2 Successors and Assigns

7.2.1 This Agreement (including without limitation, all obligations imposed by the Contract Documents) shall be binding upon and shall inure to the benefit of the parties= successors, assigns, and legal representative. The Contract shall not be assigned or sublet in whole or in part by the Contractor without the written consent of the Owner, nor shall the Contractor assign any monies due or to become due to him hereunder, without the previous written consent of the Owner.

7.3 Written Notice

7.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or member of the firm, entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to him who gives the notice.

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7.4 Claims for Damages

7.4.1 Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the other party, or of any of his employees, agents or others for whose acts he is legally liable, claim shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

7.5 Performance Bond and Labor and Material Payment Bond

7.5.1 The Contractor shall furnish and keep in force throughout the performance of the Work a separate performance bond and separate labor and material payment bond, each in the amount of the total of the Contract (as the same may be modified from time to time) conditioned upon the faithful performance of the Work by the Contractor and payment of all obligations arising in connection with the Work by the Contractor. Said bonds shall also guarantee to the Owner that the Work shall be free of all liens upon the property of the Owner. The bonds shall name the Owner as obligee and shall be with such Surety authorized to do business in the State of Tennessee and in such form and manner as approved by Owner. Said Bond shall be subject to final approval of the Shelby County Risk Management Department. Said bonds shall be furnished to the Owner prior to the commencement of the Work, or upon written request by Owner to Contractor after the Work has commenced.

7.6 Rights and Remedies

7.6.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available there under shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

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

7.7 Tests

7.7.1 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested or approved, the Contractor shall give the Architect

timely notice of its readiness so the Architect may observe such inspection, testing

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or approval. The Contractor shall bear all costs of such inspections, tests, or approvals conducted by public authorities. Unless otherwise provided, the Owner shall bear all costs of other inspections or tests.

7.7.2 If the Architect determines that any Work requires special inspection, testing, or approval, which Subparagraph 7.7.1 does not include, he will, upon written authorization from the Owner, instruct the Contractor to order such special inspection, testing, or approval, and the Contractor shall give notice as provided in Subparagraph 7.7.1. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents, the Contractor shall bear all costs thereof, including compensation for the Architect's additional services and/or correction of the defective Work made necessary by such a failure; otherwise, the Owner shall bear such costs, and an appropriate Change Order shall be issued.

7.7.3 Required certificates of inspection, testing, or approval shall be secured by the Contractor and promptly delivered by him to the Architect.

7.7.4 If the Architect is to observe the inspection, tests or approvals required by the Contract Documents, he will do so promptly where practicable, at the source of supply.

ARTICLE VIII

TIME

8.1 Definitions

8.1.1 Unless otherwise provided, the Contract time is the period of time allotted in the Contract Documents for Substantial Completion of the Work as defined in Subparagraph 8.1.3, including authorized adjustments thereto.

8.1.2 The date of commencement of the Work is the date established in a notice to proceed. If there is no notice to proceed, it shall be the date of the Owner-Contractor Agreement or such other date as may be established therein.

8.1.3 The date of Substantial Completion of the Work or designated portion thereof is the Date certified by the Architect when construction is sufficiently complete, in accordance with the contract Documents, so the Owner can occupy or utilize the Work or designated portion thereof for the use

for which it is intended.

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

8.2 Progress and Completion

8.2.1 All time limits stated in the Contract Documents are of the essence of the Contract.

8.2.2 The Contractor shall begin the Work on the date of commencement as defined in Subparagraph 8.1.2. He shall carry the work forward expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

8.3 Delays and Extensions of Time

8.3.1 The Contractor shall proceed with each and every part of this Agreement in a prompt and diligent manner. The Contractor, without additional compensation, shall perform the Work at such times, in such order and in such manner as the Owner may direct. The Contractor shall commence, continue, and complete its performance of the Project so as not to delay Owner or other separate contractors of the Owner or subcontractors= completion of the Work or any portions thereof, and so as to insure completion as directed by Owner. Any time specified for the completion of the Work, or portion thereof, is a material provision of this Agreement, and time is of the essence. The Contractor shall furnish sufficient forces to assure proper performance of its Work in strict compliance with all performance or progress schedules for the Project.

8.3.2 The Contractor shall, from time to time, on written demand of Owner, give adequate evidence to Owner to substantiate the planned performance and progress of the Work and the various parts thereof. The Contractor shall promptly increase its work force, accelerate its performance, work overtime, work Saturdays, Sundays and holidays, all without additional compensation, if in the opinion of the Owner, such work is necessary to maintain proper progress. The Contractor will fully cooperate and coordinate its work with any other separate contractors of Owner or subcontractors at the Project. The Contractor shall bear the costs of all damages done to other separate contractors of Owner or subcontractors and shall be responsible for any damages caused by or resulting from acts or omissions of the Contractor in failing to make proper progress. The liability of the Contractor shall not be deemed waived by any assent or acquiescence by Owner to the Contractor's late performance. Owner shall be entitled to terminate this Agreement due to late or threatened late performance, upon seven (7) days notice to proceed and Contractor's failure to do so.

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8.3.3 In the event any subcontractor should damage the Contractor, the Contractor shall neither seek nor be entitled to any compensation from Owner, but will seek its damages directly from such subcontractor. Should the Contractor's performance, in whole or part, be disrupted, interfered with or delayed, or be suspended in the commencement, prosecution or completion, for reasons beyond the Contractor's control and without its fault or negligence, the Contractor shall be entitled to an extension of time in which to complete its Work; but only if it shall have notified the Owner, in writing, of the cause of delay within five (5) days of the occurrence of the event. The Contractor and Owner agree that the Contractor shall not be entitled to any money damages regardless of fault as a result of any delay, acceleration, disruption, interference, suspension, or other event affecting the Contractor or the Contractor's performance.

ARTICLE IX PAYMENTS AND COMPLETION

9.1 Contract Sum

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

9.2 Schedule of Values

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to the various portions of the Work, prepared in such form, and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used only as a basis for the Contractor's Applications for Payment.

9.3 Applications for Payment

9.3.1 At least ten days before the date of each progress payment established in the Owner-Contractor Agreement, the Contractor shall submit to the Architect an itemized Application for Payment, notarized if required, supported by such data substantiating the Contractor's right to payment as the Owner or the Architect may require, and reflecting retainage, if any, as provided elsewhere in the Contract Documents. The Contractor shall indicate on each Application for Payment the dollar amount and percentage due Subcontractors.

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Progress payments (monthly) will be made based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect as follows:

On or before the 10th day of each month, 95% of the proportion of the Contract Sum properly allocable to labor, materials and equipment incorporated in the Work, up to the first day of that month, less the aggregate of previous payments in each case. Payments will be less such retainage as the Architect shall determine for all incomplete work and unsettled claims.

9.3.1.1 Until final payment, the Owner will pay 95% of the amount due the Contractor on account of progress payments. If the manner of completion of the Work and its progress are and remain satisfactory to the Owner, it may, in its sole discretion, for each Work category shown to be 50% or more complete in the Application for Payment, without reduction of previous retainage, on presentation by the Contractor with Consent of Surety for each application, certify any remaining progress payments for each Work category to be paid in full.

9.3.1.2 The full Contract retainage may be reinstated at any time in the sole discretion of the Owner.

9.3.2 Unless otherwise provided in the Contract Documents, payments will be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site and, if approved in advance by the Owner, payments may similarly be made for materials or equipment suitably stored at some other location agreed upon in writing. Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance and transportation to the site for those materials and equipment stored off the site.

9.3.3 The Contractor warrants that title to all Work, materials and equipment covered by an Application for Payment will pass to the Owner either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to in the Article IX as Aliens; and that no Work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other persons performing Work at the site or furnishing materials and equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

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9.3.4 The Contractor shall submit a report with each Application for Payment, which sets forth all subcontractors performing work during that reporting period, the dollar amount paid to the subcontractor, etc. on the form provided by Shelby County Government.

9.4 Certificate for Payment

9.4.1 The Architect will, within seven (7) days after the receipt of the Contractor's Application for Payment, issue a Certificate for Payment to the Owner for such amount as the Architect determines is properly due.

9.4.2 The issuance of a Certificate of Payment will constitute a representation by the Architect to the Owner, based on his observations at the site as provided in Subparagraph 2.2.3 and the data comprising the Application for Payment, that the Work has progressed to the point indicated; that, to the best of his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and any specific qualifications stated in his Certificate); and that the Contractor is entitled to payment in the amount certified.

9.5 Progress Payments

9.5.1 The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's Work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's Work. The Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payments to his Sub-subcontractors in similar manner.

9.6 Payments Withheld

9.6.1 The Architect may decline to certify payments and may withhold his Certificate in whole or in part, to the extent necessary to protect the Owner, if in his opinion he is unable to make representations to the Owner as provided in Subparagraph 9.4.2. The Architect may also decline to certify payment or,

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because of subsequently discovered evidence or subsequent observations, he may nullify the whole or any part of any Certificate for Payment previously issued, to such extent as may be necessary in his opinion to protect the Owner from loss because of:

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials, or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or another contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time; or
- .7 persistent failures to carry out the Work in accordance with the Contract Documents.

9.6.2 When the above grounds in Subparagraph 9.6.1 are removed, payment shall be made, without interest, for any amounts previously withheld.

9.7 Substantial Completion

9.7.1 When the Contractor considers that the Work, or a designated portion thereof which is acceptable to the Owner, is substantially complete as defined in Subparagraph 8.1.3, the Contractor shall prepare for submission to the Architect a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When the Architect on the basis of an inspection determines that the Work or designated portion thereof is substantially complete, he will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. Warranties required by the Contract Documents shall

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commence on the Date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

9.7.2 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof, as provided in the Contract Documents. Payment by the Owner upon application by the Contractor and certification by the Architect for Substantial Completion does not waive any claims the Owner may have against the Contractor.

9.8 Final Completion and Final Payment

9.8.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when he finds the Work acceptable under the Contract Documents and the Contract fully performed, he will promptly issue a final Certificate for Payment stating that to the best of his knowledge, information and belief, and on the basis of his observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract documents and that the entire balance found to be due the Contractor, and noted in said final Certificate, is due and payable. The Architect's final Certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth in Subparagraph 9.7.2 have been fulfilled.

9.8.2 Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or his property might in any way be responsible, have been paid or otherwise satisfied, (2) consent of surety to final payment and (3) if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of claims, encumbrances and/or alleged liens arising out of the Contract, to the extent and in such form as may be designated by the Owner. If any Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify him against such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorney's fees.

9.8.3 The acceptance of final payment shall constitute a Initial _____

waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment.

ARTICLE X
PROTECTION OF PERSONS AND PROPERTY

10.1 Safety Precautions and Programs

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

10.2 Safety of Persons and Property

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

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

10.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury, or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities. Pavements, sidewalks, alleys, adjacent buildings not included in this Contract, which may be damaged, shall be repaired and/or replaced immediately and in a manner satisfactory to the Architect, Shelby County and/or other governing officials.

10.2.4 When the use or storage of explosives or other Initial _____

hazardous materials or equipment is necessary for the execution of the Work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

10.2.5 The Contractor shall promptly remedy all damage or loss (other than damage or loss insured under Paragraph 11.3) to any property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, Subcontractor, or any Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts the Contractor may be liable or responsible. The foregoing obligations of the Contractor are in addition to his obligations under Paragraph 4.16.

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

10.2.7 The Contractor shall not load or permit any part of the Work to be loaded to endanger its safety.

10.3 Emergencies

10.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatened damage, injury, or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article XII for Changes in the Work.

10.3.2 Whenever the Contractor has not taken sufficient precautions for the safety of the public or the protection of work to be performed under this Project, or adjacent structures or property which may be injured by processes of construction, demolition and/or site clearance on account of such neglect, and whenever an emergency shall arise and immediate action shall be considered necessary in order to protect public or private, persons or property interest, then the Architect and/or the Owner shall so instruct the Contractor.

10.3.3 If correction is not made in due time or if conditions such as lack of time prevent instructions to Contractor, then the Owner, without notice to the Contractor, may provide reasonable, suitable protection by causing such Work to be done and material to be furnished and placed as the Architect and Owner may consider necessary and adequate. The cost and expense of such work and

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material so furnished shall be borne by the Contractor and, if

the same shall not be paid on presentation of the bills thereof, such costs shall be deducted from any amounts due or to become due the Contractor. The performance of such emergency work under the direction of the Owner and/or Architect shall in no way relieve the Contractor of the responsibility for damages, which may occur during or after such performance.

10.3.4 None of the foregoing shall make the Owner and/or Architect responsible for foreseeing and protecting against emergency.

ARTICLE XI INSURANCE

11.1 Contractor Liability Insurance

11.1.1 The Contractor shall purchase and maintain, in a company or companies licensed to do business in the State of Tennessee, such insurance as will protect the Owner from claims set forth below which may arise out of or result from the Contractor's operations under the Contract, whether such operations be by himself or by any Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts the Contractor or Subcontractor may be liable:

- .1 claims under workers compensation, disability benefits, and other similar employee benefit acts;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of his employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees;
- .4 claims for damages insured by personal injury liability coverage, which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
- .5 claims for damages, other than the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
- .6 claims 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.

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11.1.2 The insurance required by Subparagraph 11.1.1 shall be written for not less than any limits of liability specified in the Contract Documents, section III, paragraph 31, or required by law, whichever is greater.

11.1.3 The insurance required by Subparagraph 11.1.1 shall include contractual liability insurance applicable to the Contractors obligations under Paragraph 4.16.

11.1.4 All insurance policies maintained by the Contractor shall provide that insurance as applying to the Owner shall be primary and non-contributing irrespective of such insurance as the Owner may maintain in its own name and on its own behalf.

11.1.5 Certificates of Insurance acceptable to the Owner shall be filed with the Owner at the time of submittal of the Contract

Documents to the Owner for execution. These certificates shall contain a provision that coverage's afforded under the policies will not be canceled until at least thirty(30) days prior written notice has been given to the Owner. The Contractor shall immediately notify Shelby County Government, Contract Administration, 160 N. Main Street, Suite 550, Memphis, Tennessee 38103 of cancellation or changes in any of the insurance coverage required. Upon request of the Owner, certified copies of any of the required insurance policies may be requested from the Contractor or Contractor's insurance company, agency, or broker.

11.2 Owners Liability Insurance

11.2.1 The Owner shall at its discretion, purchase liability insurance or maintain a self-insured liability program.

11.3 Property Insurance

11.3.1 The General Contractor shall be responsible for all risk insurance for physical loss or damage for the project during construction until the project is accepted by the Owner at which time the Owner will provide the property coverage.

11.3.2 The Contractor shall pay each Subcontractor a just share of any insurance monies received by the Contractor, and by appropriate agreement, written where legally required for validity, shall require such Subcontractor to make payments to his Sub-subcontractors in similar manner.

11.3.3 The Contractor or his insurance agent, broker or insurance company shall furnish to Owner a copy of all policies with the Contactor within five days of request.

11.3.4 If the Owner requests in writing that insurance for risks other than those described in Subparagraphs 11.3 and 11.3.2 or 11.3.3 or other special hazards to be included in the property insurance policy, the Contractor shall, if possible, include such insurance, and the cost thereof shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order. Initial_____

ARTICLE XII
CHANGES IN THE WORK

12.1 **Change Orders**

12.1.1 A Change Order is a written order to the Contractor signed by the Owner issued after execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. A Change Order signed by the Contractor indicates his agreement therewith, including the adjustment in the Contract Sum or the Contract Time. The Contractor by execution of the Change Order waives any further claims or damages in any manner whatsoever for the changes set forth in the Change Order.

12.1.2 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order, and shall be performed under the applicable conditions of the Contract Documents.

12.1.3 The cost or credit to the Owner resulting from a change in the Work shall be determined in one or more of the following ways:

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- .1 by lump sum properly itemized on the form furnished by the Owner which shall show the actual verified cost of the work, plus ten percent overhead and five percent profit; if the

work is performed by a Subcontractor, the General Contractor is allowed an additional five percent;

- .2 by unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 by cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 by the method provided in Subparagraph 11.1.4.

12.1.4 If none of the methods set forth in Clauses 12.1.3.1, 12.1.3.2, or 12.1.3.3 is agreed upon, the Contractor, provided he receive a written order signed by the Owner, shall promptly proceed with the Work involved. The cost of such Work shall then be determined by the Architect on the basis of the reasonable expenditures and savings of those performing the Work attributable to the change, including, in the case of an increase in the Contract Sum, a reasonable allowance for overhead and profit, which shall be defined as ten percent overhead and five percent profit with an additional five percent going to the General Contractor when the work is performed by a Subcontractor. In such case, and also under Clauses 12.1.3.3 and 12.1.3.4 above, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of labor, including social security, old age and unemployment insurance and fringe benefits required by agreement or custom; workers= or workmen compensation insurance; bond premiums, rental value of equipment and machinery; and the additional costs of supervision and field office personnel directly attributable to the change. Pending final determination of cost to the Owner, payments on account shall be made on the Architect's Certificate for Payment. The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

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12.2 Concealed Conditions

12.2.1 Should concealed conditions encountered in the performance of the Work below the surface of the ground or

should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown physical conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract, be encountered, Contractor, subject to approval by the Architect, shall be entitled to a time extension for only the period that the Contractor's performance is extended due to the unforeseen conditions.

12.3 Minor Changes in the Work

12.3.1 The Architect will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such Changes shall be effected by written order, and shall be binding on the Owner and the Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE XIII UNCOVERING AND CORRECTION OF WORK

13.1 Uncovering of Work

13.1.1 If any portion of the Work should be covered contrary to the request of the Architect or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect, be uncovered for his observation and shall be replaced at the Contractor's expense.

13.1.2 If any other portion of the Work has been covered which the Architect has not specifically requested to observe prior to being covered, the Architect may request to see such Work, and it shall be uncovered by the Contractor. If such Work is found in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is found not in accordance with the Contract Documents, the Contractor shall pay such costs. If the Work to be uncovered by the Contractor should have been inspected by the Architect prior to being covered, and the Work is found to be in accordance with the Contract Documents, the cost of the uncovering and recovering of the Work shall be borne by the Architect.

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13.2 Correction of Work

13.2.1 The Contractor shall promptly correct all Work

rejected by the Architect as defective or as failing to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including compensation for the Architect's additional services made necessary thereby.

13.2.2 If, within one year after the Date of Substantial Completion of the Work or designated portion thereof, within one year after acceptance by the Owner of designated equipment or within such longer period of time as may be prescribed by law or by the term of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner to do so. This obligation shall survive termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.

13.2.3 The Contractor shall remove from the site all portions of the Work, which are defective or non-conforming, unless removal is waived by the Owner.

13.2.4 If the Contractor fails to correct defective or non-conforming Work as provided in Subparagraphs 4.5.1, 13.2.1, and 13.2.2, the Owner may correct it in accordance with Paragraph 3.4.

13.2.5 If the Contractor does not proceed with the correction of such defective or non-conforming Work within a reasonable time fixed by written notice from the Architect, the Owner may remove it and store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten days thereafter, the Owner may, upon ten additional days' written notice, sell such Work at auction or a private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor, including compensation for the Architect's additional services made necessary thereby. If such proceeds of sale do not cover all costs, which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

13.2.6 The Contractor shall bear the cost of making good all work of the Owner or separate contractors destroyed or damaged by such correction or removal.

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13.2.7 Nothing contained in Paragraph 13.2 shall be construed to establish a period of limitation with respect to any other

obligation which the Contractor might have under the Contract Documents, including Paragraph 4.5 hereof. The establishment of the time period of one year after the Date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligations other than specifically to correct the Work.

13.3 Acceptance of Defective or Non-Conforming Work

13.3.1 If the Owner prefers to accept defective or non-conforming Work, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable. Such adjustment shall be effective whether or not final payment has been made.

ARTICLE XIV TERMINATION OF THE CONTRACT

14.1 Termination for Default

14.1.1 Should the Contractor fail to perform in strict accordance with this Agreement, where or as Owner may so direct, or should the Contractor become insolvent, unable to or fail to pay its obligations as they mature or, in any other respect fail in the opinion of the Owner, to properly prosecute and perform any part of its work, fail to exert its best performance efforts, be involved in labor disputes, or be terminated under any other contract with Owner, then the Contractor may be deemed by Owner to have materially breached and to have defaulted in its obligations under this Agreement. In case of a breach and default, the Owner, at its discretion, may terminate this Agreement, or any part thereof, by giving five (5) days written notice thereof to the Contractor. In case of such termination, Owner may use any and all materials, equipment, tools or chattels furnished by or belonging to the Contractor either at or for the Project.

14.1.2 The Contractor, on termination, will be deemed to have offered to Owner an assignment of all of its subcontracts and purchase orders relating to this Project. Owner may, at its discretion, do whatever is necessary to assure performance of any

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terminated work and to take such action, if necessary, in the

Contractor's name. Owner may withhold from Contractor any monies due or to become due under this or any other contract between the Contractor and Owner, to offset the damages incurred or possibly incurred as a result of the breach and default by the Contractor. In case of a breach, or in the event Owner is required to retain the services of an attorney to enforce any provisions of this Agreement, then the Contractor and its surety company shall be liable to Owner for any and all additional costs, expenses, attorney's fees and other damages, both liquidated and unliquidated, which directly or indirectly result from the Contractor's breach, threatened breach, default or lack of performance of any term or condition of this Agreement.

14.1.3 If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for the Architect's additional services made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or to the Owner, as the case may be, shall be certified by the Architect, upon application, in the manner provided in Paragraph 9.4, and this obligation for payment shall survive the termination of this Contract.

14.2 Termination for Convenience

14.2.1 Owner, by written notice, shall have the right to terminate and cancel this Agreement, without the Contractor being at fault, for any cause or for its own convenience, and require the Contractor to immediately stop work. In such event, Owner shall pay the Contractor for that Work actually performed and materials furnished in an amount proportionate to the Contract price. Owner shall not be liable to the Contractor for any other costs, including prospective profits on Work not performed.

ARTICLE XV RIGHT TO OCCUPY BY OWNER

15.1 Early Occupancy by Owner

15.1.1 The Owner has the right to occupy or use ahead of schedule all or any substantially completed or partially completed portion of the Work when such occupancy and use are in its best interest, notwithstanding the time of completion for all of the Work. If occupancy or use increases the cost of the Work (other than for corrections which are the responsibility of the Contractor) and/or as a result of the Owner exercising its rights

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herein, the contractor shall be entitled to extra costs and extensions of time, or both. Claims for such extra costs and extensions of time, to be valid, shall be made in writing to the Owner within seven (7) calendar days of the notification of Owner to the Contractor of its intent to so occupy or use.

15.2 Corrections after Occupancy

15.2.1 After the Owner has taken occupancy of all or any substantially completed portion of the Work, the Contractor shall not disrupt the use and occupancy of the Owner to make corrections in the Work but shall, at the discretion of the Owner, make such corrections at the expense of the Contractor after normal working hours.

15.3 Heating, Ventilating, and Air-Conditioning Systems

15.3.1 The Owner may require the use and operation of any completed heating, ventilating, and air-conditioning equipment at the time it occupies or uses any substantially completed portion of the Work. In such event, the Owner may require the Contractor to operate such equipment and will pay the Contractor the cost of such utilities required for the use and occupancy of the Owner, but the Contractor shall be responsible for such equipment and for its careful and proper operation. At any time, the Owner may assume the care and maintenance of any portion of the Work, which it is occupying and using for the operation of any such equipment, but in each case, the Contractor shall not be relieved of its responsibility for the full completion of the Work and the protection of its tools, materials, and equipment.

ARTICLE XVI
REGULATIONS

16.1 Nondiscrimination in Employment

16.1.1 During the performance of this Contractual Agreement, the contracting party agrees as follows: The CONTRACTOR agrees that no person on the grounds of handicap, age, race, color, religion, sex, or national origin, shall be excluded from participation in, or be denied benefits of, or be otherwise subject to discrimination in the performance of this contract, or in the employment practices of the CONTRACTOR. The CONTRACTOR shall upon request show proof of such non-discrimination, and shall post in conspicuous places available to all employees and applicants notices of non-discrimination.

16.2 [RESERVED]

16.3 Maintenance and Records

16.3.1 The Contractor and all Subcontractors under the General Contract shall maintain copies of every subcontract awarded and their own payrolls, for each weekly payroll period during the term of the Construction Contract and for a period of one (1) year after release and payment is made by Owner to the Contractor.

16.4 Owner's Right of Inspection

16.4.1 Representative of the Owner, as designated by the County Mayor, shall have the right to inspect the Contractor's facilities and payroll records during the life of the Construction Contract for a period of one (1) year after final release and final payment by the Owner for the purpose of verifying nondiscrimination in employment.

ARTICLE XVII

**PROCEDURE FOR INSTALLATION OR
REMOVAL OF FIBERGLASS INSULATION**

The following procedures should be adhered to when disturbing, installing, or removing fiberglass insulation. These procedures are established to minimize employee exposure to the adverse health affects of fiberglass exposure.

The below procedures are the minimal requirements for handling fiberglass in Shelby County Facilities. Mandates by code or law must be adhered to.

**17.1 Installation, Removal, or Disturbance of
Fiberglass Insulation**

17.1.1 Install in well-ventilated areas and avoid breathing dust.

17.1.2 Wear loose, comfortable clothing and long-sleeved shirts to minimize skin contact.

17.1.3 Handle carefully to minimize airborne dust.

17.1.4 If high dust levels are anticipated during installation, such as with power tools, use appropriate NIOSH approved dust respirator.

17.1.5 All power cutting tools must be equipped with dust collectors.

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17.2 **Exposure**

17.2.1 After use, wash with warm water and mild soap. Do not scratch or rub skin if it becomes irritated. Utilize running water.

17.2.2 Wash work clothes separately, and then rinses the washer.

17.2.3 Eye exposure: Flush with flowing water for at least 15 minutes. If symptoms persist, seek immediate medical attention.

17.3 **Work Site Environment**

17.3.1 Insure area is free of obvious partials through proper cleanup procedures. Use of vacuum with proper filters, or wet cleanup is acceptable. (This includes office furniture, floors, and walls.)

17.3.2 Initially there may be a potential adverse impact on indoor air quality within the general work area during the installation process. Notify building manager or other appropriate person that it will be necessary to establish and maintain adequate ventilation of the work area, without causing the entry of contaminants to other parts of the building. Persons who are sensitive to odors and/or chemicals should be advised to avoid the work area during this process.

17.3.3 Exposure to employees should be kept to a minimum.

17.3.4 Disturbance of ceiling tiles where fiberglass insulation exists requires the same procedures as if installation or removal was taking place.

BY THE SIGNING OF THIS DOCUMENT AND INITIALING EACH PAGE HEREOF, THE CONTRACTOR CERTIFIES THAT HE HAS READ AND UNDERSTANDS ALL OF THE ABOVE AND AGREES TO ABIDE BY THESE GENERAL CONSTRUCTION CONDITIONS.

CONTRACTOR

BY: _____

TITLE: _____

DATE: _____

SECTION 01 21 43
TIME ALLOWANCES (Weather Delays)

PART 1 GENERAL

1.1 EXTENSIONS OF CONTRACT TIME

A. The basis for an extension of time in accordance with the Shelby County General Conditions of the Contract for Construction, an extension of time may be granted only for the number of Weather Delay Days in excess of the number of days listed as the Standard for the Baseline for that month. Time extension(s) will be at the Owner's Discretion.

1.2 STANDARD BASELINE FOR AVERAGE CLIMATIC WEATHER

A. Time extensions may be granted for rain, wind, snow or other natural phenomena of normal intensity for the locality where the Work is performed. For the purpose of determining extent of delay attributable to unusual weather phenomena, a determination shall be made by comparing the weather for the contract period involved with the average of the preceding five (5) year climatic range during the same time interval based on the National Oceanic and Atmospheric Administration National Service statistics for the locality where Work is performed and on daily weather logs kept on the job site by the Contractor reflecting the effect of the weather on progress of the Work. Request for extension of time shall be made in writing within twenty (20) days following cause of delay. In case of continuing cause for delay, only one (1) claim is necessary. Time extension(s) will be at the Owner's Discretion.

1.3 ADVERSE WEATHER AND WEATHER DELAY DAYS

A. Adverse Weather is defined as the occurrence of one or more of the following conditions which prevent exterior construction activity or access to the site within twenty-four (24) hours:

1. Precipitation (rain, ice, snow) in excess of one-tenth inch (0.10") liquid measure.
2. Temperatures which do not rise above 32°F by 10:00 a.m.
3. Temperatures which do not rise above that specified for the day's construction activity by 10:00 a.m., if any specified.
4. Sustained wind in excess of twenty-five (25) mph
5. Standing snow in excess of one inch (1 ").

B. Adverse Weather may include, if appropriate, "dry-out" or "mud" days when all the following conditions are met:

1. For rain days above the standard baseline.
2. Only if there is a hindrance to the site access or site work.
3. At a rate no greater than 1 make-up day for each day of consecutive days of rain beyond the standard baseline that total 1.0 inch or more, liquid measure, unless specifically recommended otherwise by the Architect

C. A Weather Delay Day may be counted if adverse weather prevents work on the project for fifty percent (50%) or more of the Contractor's scheduled work day, including a weekend day or holiday if the contractor has scheduled construction activity that day.

1.4 DOCUMENTATION AND SUBMITTALS

- A. Submit daily jobsite logs showing which and to what extent construction activities have been affected by weather.
- B. Submit actual weather data to support claim for time extension, obtained from nearest NOAA Weather Station or other independently verified source approved by the Architect at the beginning of the project
- C. Use Standard Baseline data provided in this Section when documenting actual delays due to weather in excess of the average climatic range.
- D. Organize claim and documentation to facilitate evaluation on a basis of calendar month periods, and submit to the Architect for review in accordance with the Shelby County General Conditions of the Contract for Construction
- E. If an extension of time is appropriate, it shall be affected in accordance with the Owner's Approval and the provisions of the Shelby County General Conditions of the Contract for Construction.

END OF SECTION

SECTION 01 29 76
PROGRESS PAYMENT PROCEDURES

PART 1 – GENERAL

1.1 SECTION INCLUDES

- A. Schedule of Values
- B. Applications for Payment
- C. Certificates for Payment
- D. Progress Payments
- E. Substantial Completion
- F. Final Completion and Final Payment

1.2 SCHEDULE OF VALUES

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

1.3 APPLICATIONS FOR PAYMENT

1.3.1. At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with an updated version of the most recently approved schedule of values for completed portions of the Work. Such application shall be notarized, if required, notarized and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

1.3.1.1 Such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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

1.3.1.3. Periodic Affidavits and Waivers of Liens. The Contractor shall submit with each Application for Payment, affidavits and waivers of lien conditioned on receipt of payment from the Contractor. Said affidavits and conditional waivers of lien shall be submitted for the Contractor and all Subcontractors, Sub-subcontractors, and material suppliers for the period of time of this Application for Payment. With this Application for Payment, the Contractor shall also submit copies of Final Release of Liens, canceled checks or other documentation as evidence of payment to the Subcontractors, Sub-subcontractors, and material suppliers for all previously submitted conditional waivers of liens

1.3.2. Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site

at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

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

1.4 CERTIFICATES FOR PAYMENT

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

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

1.5 PROGRESS PAYMENTS

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

1.5.2. The Contractor shall pay each Subcontractor no later than seven days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

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

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

1.5.5. Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 1.5.2, 1.5.3 and 1.5.4.

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

1.5.7. Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

1.5.8. Contractor to Discharge Mechanic's Liens. If any mechanics' or material suppliers' liens shall at any time be asserted or filed against the Project as a result of the Contractor's construction activities or those of any Subcontractors, Sub-subcontractors or material suppliers, the Contractor, at the Contractor's expense, shall promptly take and diligently prosecute appropriate action to have the same discharged of record or bonded off within thirty (30) days after notice of filing thereof or such lesser period as shall be necessary to prevent judgment execution or foreclosure of such mechanic's lien or any adverse consequences for the Owner. Upon the Contractor's failure to do so, the Owner, in addition to any other right or remedy that the Owner may have, may take such action as may be reasonably necessary to protect the Owner's interest, including payment or settlement of the lien claim and the Contractor shall reimburse the Owner any amounts paid or incurred by the Owner in connection with such action. The Contractor shall indemnify and hold harmless the Owner with respect to any claims or liens asserted by the Contractor's Subcontractors or Sub-subcontractors at any level if the Contractor has been paid with respect to the work or materials for which the claim or lien is asserted.

1.6 SUBSTANTIAL COMPLETION

1.6.1. Substantial Completion is the stage in the progress of the Work when all required occupancy permits have been issued and the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

1.6.2. When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive

list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

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

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

1.6.5. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. thereof within ninety (90) days. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

1.7 FINAL COMPLETION AND FINAL PAYMENT

1.7.1A. Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 1.7.2. as precedent to the Contractor's being entitled to final payment have been fulfilled.

1.7.2. Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases

and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

1.7.3. If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

1.7.4. The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

.1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;

.2 failure of the Work to comply with the requirements of the Contract Documents; or

.3 terms of special warranties required by the Contract Documents.

.4 latent defects appearing during or beyond the warranty period.

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

1.7.6. Final Affidavits and Waivers of Liens. The Contractor shall submit to the Architect and the Owner final affidavits and unconditional waivers of liens, in form and substance satisfactory to the Owner from the Contractor, Subcontractor, and Sub-subcontractor and material suppliers. On request of the Owner, the Contractor shall provide any additional information or documentation necessary under the then existing mechanic's lien laws.

1.7.7. Unless otherwise agreed to by the Owner, Final Completion of the Project shall be achieved no later than thirty (30) days following the date of Substantial Completion.

PART 2 – PRODUCTS

Not Used

PART 3 – EXECUTION

Not Used

END OF SECTION

SECTION 01 31 13
PROJECT COORDINATION

PART 1-GENERAL

1.1 SUMMARY

A. Includes coordination of the portion of the Prime Contractor's work with that of all subcontractors involved with any portion of the Project Scope of the Work, including all mechanical, electrical, and masonry work.

B. Related Sections

1. Section 01 11 13 - Summary of the Work
2. Section 01 31 19 – Project Meetings
3. Section 01 32 16 – Construction Progress Schedule
4. Section 01 33 23 – Submittals
5. Section 01 77 19 – Closeout Requirements

1.2 CONTRACTOR'S DUTIES

A. Work with trades associated with the Scope of the Work.

B. Coordinate the schedules of all trades, including mechanical, electrical, and masonry subcontractors (if applicable for this project).

1. Verify timely deliveries of products for installation by all trades.
2. Verify that labor and materials are adequate to maintain schedules.

C. Conduct conferences among all subcontractors and other concerned parties, as necessary to:

1. Maintain coordination and schedules.
2. Resolve matters in dispute.

D. Participate in project meetings:

1. Report progress of each trade.
2. Recommend needed changes in schedules.
3. Transmit minutes of meetings to trades as appropriate.

E. Temporary Utilities:

1. Coordinate installation, operation and maintenance, to verify compliance with project requirements and with Contract Documents.
2. Verify adequacy of service at required locations.

F. Shop Drawings, Product Data and Samples - Submittals:

1. Prior to submittal, review for compliance with Contract Documents.
 - a. Check field dimensions, clearance dimensions and finish requirements.
 - b. Check relation to available space.
 - c. Check anchor bolt settings and setting of other embedded items.
 - d. Review the effect of any changes on the work of other contracts or trades.

- e. Check items to receive field finish. Verify that item is suitable to receive such finish.
- f. Check compatibility with mechanical and electrical equipment and work of other trades.

G. Coordination Drawings:

- 1. Prepare, as required to assure coordination of work of, or affected by trades or to resolve conflicts.
- 2. Contractor to review prior to transmitting to appropriate trades.
- 3. Reproduce and distribute Contractor approved copies to all concerned parties.

H. Observe required testing; maintain a record of tests:

- 1. Testing agency and name of inspector.
- 2. Subcontractor.
- 3. Manufacturer's Representative present.
- 4. Date and time of testing.
- 5. Type of product or equipment.
- 6. Type of test and results.
- 7. Retesting required.

I. Verify that subcontractors maintain accurate record of documents.

J. Substitution and Changes:

- 1. Review proposals and request:
 - a. Check for compliance with Contract Documents.
 - b. Verify with work and equipment of other trades.
- 2. Recommend action to concerned parties.

K. Observe work of all trades, including mechanical and electrical work for compliance with requirements of Contract Documents.

- 1. Maintain list of observed deficiencies.
- 2. Promptly report deficiencies or discrepancies to applicable parties.

L. Assemble documentation for handling of claims or disputes involving various trades.

M. Equipment Startup:

- 1. Check to assure that utilities and specified connections are complete and that equipment is in operable condition.
- 2. Observe test, adjust and balance.
- 3. Record results, including time and date of startup.

N. Inspection and Acceptance of Equipment:

- 1. Prior to inspection, check that equipment is clean, repainted as required, tested and operational.
- 2. Assist inspector; prepare list of items to be completed or corrected.
- 3. Should acceptance and operation of equipment constitute the beginning of the specified guarantee period, prepare and transmit written notice to Owner.

O. Assemble Record Documents for subcontractors; transmit to Architect for delivery to Owner.

1.3 COORDINATION SCHEDULE

A. The schedule designates areas of basic responsibility of contractors and subcontractors, including items of mechanical work and electrical power and control wiring for the project, but does not define scope.

B. Refer to respective Sections of Project Manual for detailed descriptions of work required.

C. Contractor Shall:

1. Maintain Schedule throughout construction period; record changes in responsibilities due to:

a. Modifications to Contract.

b. Field orders.

c. Substitutions.

2. Reproduce and distribute revised schedule promptly after each change to affected subcontractors, material suppliers and Owner.

END OF SECTION

SECTION 01 31 19
PROJECT MEETINGS

PART 1 GENERAL

1.1 SUMMARY

A. Work Included: To enable orderly review during progress of the Work, and to provide for systematic discussion of problems, the Architect will conduct project meetings throughout the construction period.

B. Related Work:

1. Documents affecting work of this Section include, but are not necessarily limited to, Shelby County General Conditions and Sections in Divisions 0 and 1 of these Specifications.
2. The Contractor's relations with his subcontractors and materials suppliers and discussions relative thereto are the Contractor's responsibility and normally are not part of project meetings content.

1.2 SUBMITTALS

A. Agenda Items: To the maximum extent practicable, advise the Architect at least 24 hours in advance of project meetings regarding items to be included on the agenda.

B. Minutes: The Architect will compile minutes of each project meeting and will furnish copies to the General Contractor and to the Owner. Recipients of copies may make and distribute such other copies as they wish.

1.3 QUALITY ASSURANCE.

A. For those persons designated by the Contractor to attend and participate in project meetings, provide required authority to commit the Contractor to solutions agreed upon in the project meetings.

PART 2 PRODUCTS

(Refer to Products within other Sections within this Project Specification.)

PART 3 EXECUTION

3.1 MEETING SCHEDULE:

A. Except as noted herein for Pre-construction Meeting, project meetings will be held bi-weekly. Coordinate as necessary to establish mutually acceptable schedule for meetings.

3.2 MEETING LOCATION:

A. The Architect will establish meeting location. To the maximum extent practicable, meetings will be held at the job site.

3.3. PRE-CONSTRUCTION MEETING.

A. Pre-Construction Meeting will be scheduled by the Architect. Provide attendance by authorized

representatives of the Contractor and major subcontractors. The Architect will advise other interested parties, including the Owner, and request their attendance.

B. Minimum Agenda: Data will be distributed and discussed on at least the following items.

1. Organizational arrangement of Contractor's forces and personnel, and those of subcontractors, materials suppliers, and the Architect.
2. Channels and procedures for communication.
3. Construction schedule, including sequence of critical work.
4. Contract Documents, including distribution of required copies of original documents and revisions.
5. Processing of Shop Drawings and other data submitted to the Architect for review.
6. Processing of Bulletins, field decisions, and Change Directives.
7. Rules and regulations governing performance of the Work.
8. Procedures for safety and first aid, security, quality control, housekeeping, and related matters.

3.4 PROJECT MEETINGS

A. Attendance

1. To the maximum extent practicable, assign the same person or persons to represent the Contractor at project meetings throughout progress of the Work.
2. Subcontractors, materials suppliers, and others may be invited to attend those project meetings in which their aspect of the Work is involved.

B. Minimum Agenda

1. Review, revise as necessary, and approve minutes of previous meetings.
2. Review progress of the Work since last meeting, including status of submittals for approval.
3. Identify problems that impede planned progress.
4. Develop corrective measures and procedures to regain planned schedule.
5. Complete other current business.

C. Revisions to Minutes

1. Unless published minutes are challenged in writing prior to the next regularly scheduled progress meeting; they will be accepted as properly, stating the activities and decisions of the meeting.
2. Persons challenging published minutes shall reproduce and distribute copies of the challenge to all indicated recipients of the particular set of minutes.
3. Challenge to minutes shall be settled as priority portion of "old business" at the next regularly scheduled meeting.

END OF SECTION

SECTION 01 32 16
CONSTRUCTION PROGRESS SCHEDULE

PART 1 GENERAL

1.1. SUMMARY

A. The contractor shall provide a schedule to serve as a basis for a detailed construction sequence. The detailed construction schedule shall describe and document the construction sequence necessary to execute the scope of work.

1.2 DESCRIPTION

A. Utilize a computer generated schedule for the planning and scheduling of all work required under the Contract Documents. In addition to construction activities, detailed network activities shall include the submittal of shop drawings, catalog cut sheets, and materials samples, review and approval of these submittals, and fabrication and delivery of materials and equipment. Work by separate contractors and project close - out activities shall also be included to account for their effect on the overall sequencing of the project.

1.3. SCHEDULE STANDARDS

A. The schedule shall demonstrate a logical succession of work from start to finish. Constrained start and finish dates shall be kept to a minimum, such that the schedule logic (activity relationships and durations) will determine the schedule start and finish of each activity.

B. The durations indicated for each activity shall be in "work - days" and shall represent the required time for the activity considering the scope of work and resources planned for the activity including time for inclement weather and other predictable delays.

C. Multiple calendars shall be utilized as required to allow for specific times of the week, month, or year when specific activities can or cannot be accomplished. Specific examples include, but are not necessarily limited to, Site Based activities which require limited noise and other site based activities which require considerations, such as building occupant morning and afternoon commuting arrival and departure times, consult with the Architect regarding additional time-frames which require Site Based activities to take priority over normal owner use of the site.

PART 2 PRODUCTS

2.1. Not Used

PART 3 EXECUTION

3.1. GENERAL

A. Prepare a computer generated schedule of all construction related work required by this contract.

B. Include the following information in the database for each activity:

1. Activity Description - should indicate type of work being performed and. general location or phase.
2. Calendar - the standard calendar is a five day workweek.
3. Duration - should indicate "work - days" required to accomplish the task.
4. Schedule Dates - Early Start, Early. Finish, Late Start, and Late Finish for each activity will result from the calculation of the schedule.

3.2 SUBMITTAL PROCEDURE

A. Time of Submittals:

1. Within Five (5) working days after Notice to Proceed, the Contractor shall submit its project schedule for review. The schedule produced and submitted shall indicate interim milestone and completion dates. The Architect will review the schedule within ten working days and state acceptance or rejection of the schedule.
2. Within ten working days after the conclusion of the Architect's review, the Contractor shall revise the schedule as required and resubmit. This schedule shall constitute the project Work schedule unless a revised schedule is required due to substantial changes in work or contract time, delinquency by the Contractor requiring a recovery schedule, or as otherwise provided.
3. Acceptance of the project schedule will be required prior to the processing of any application for payment.
4. Submit a copy of the schedule, clearly showing progress made during the previous month along with each Application for Payment.

B. Acceptance of Schedule:

1. The schedule will be acceptable when it provides a description of an orderly progression of the work to completion in accordance with the contract requirements, adequately defines the Contractor's work plan, and provides a workable arrangement for the processing of submittals in accordance with the requirements.
2. Review and acceptance of the Contractor's project schedule is for conformance to the requirements of the contract documents only. It does not relieve the Contractor of any responsibility for the accuracy or feasibility of the project schedule, or of the Contractor's ability to meet the interim milestone dates and contract completion date.

C. Submittal Items:

1. Initial submittals shall include the following:
 - a. Critical Path Graphic Report - include all activities for the entire project. Sort by early start, early finish, and total float; organize by submittal activities, construction activities, etc. Include activity ID, description, original duration, early start, early finish, and total float. Individual pages shall not exceed 11 inches by 17 inches.
 - b. Back-up digital file
 - e. Reports shall be submitted in triplicate plus any copies to be returned to the Contractor.
2. Monthly submittals to be included with Application for Payment shall include the following:
 - a. Project Narrative. Report - shall include a brief description of work that was accomplished during the previous month as well as work to be pursued during the upcoming month.
 - b. Critical Path Graphic Report - shall be a three-month look ahead schedule to include previous month's progress plus work to accomplish during the two months following the data date. Schedule bars shall be compared to the initial schedule as a baseline. Include the same activity information as in initial bar chart graphic

report.

c. Back-up digital file

d. Reports shall be submitted in triplicate plus any copies to be returned to the Contractor.

D. Schedule Revisions:

1. No changes may be made in the sequence, duration, or relationship of any activity without the acceptance of the Architect . Requests for minor changes to the schedule may be submitted in the form similar to the schedule form identified herein. More substantial revisions will require re-submittal of the entire schedule.

2. If at any time the Architect considers the milestone or completion dates to be in jeopardy because of work activities behind schedule, the Contractor shall provide a revised Critical Path Work Schedule, including resource requirements, to show how the Contractor intends to bring the project back on schedule. “Activities behind schedule” are any activities whose current schedule early dates are later than indicated in the initial schedule.

3. If a change directive has a schedule impact, that impact shall be submitted with the change directive request.

END OF SECTION

SECTION 01 33 23
SUBMITTALS

PART 1 – GENERAL

1.1 SECTION INCLUDES

- A. Submittal procedures.
- B. Proposed products list.
- C. Shop drawings.
- D. Product data.
- E. Samples.
- F. Manufacturers' instructions.
- G. Manufacturers' certificates.

1.2 SUBMITTAL PROCEDURES

- A. Transmit each submittal with Architect accepted form.
- B. Sequentially number the transmittal forms. Resubmittals to have original number with an alphabetic suffix.
- C. Identify Project, Contractor, Subcontractor or supplier; pertinent Drawing sheet and detail number(s), and specification Section number, as appropriate.
- D. Apply Contractor's stamp, signed or initialed certifying that review, verification of Products required, field dimensions, adjacent construction Work, and coordination of information, is in accordance with the requirements of the Work and Contract Documents.
- E. Schedule submittals to expedite the Project, and deliver to Architect at business address. Coordinate submission of related items.
- F. Identify variations from Contract Documents and Product or system limitations which may be detrimental to successful performance of the completed Work.
- G. Provide space for Contractor and Architect review stamps.
- H. Revise and resubmit submittals as required, identify all changes made since previous submittal.
- I. Distribute copies of reviewed submittals to concerned parties. Instruct parties to promptly report any inability to comply with provisions.

1.3 PROPOSED PRODUCTS LIST

- A. Within 15 days after date of Owner-Contractor Agreement, submit complete list of major products proposed for use, with name of manufacturer, trade name, and model number of each product.
- B. For products specified only by reference standards, give manufacturer, trade name, model or catalog designation, and reference standards.

1.4 SHOP DRAWINGS

- A. Submit the number of opaque reproductions which Contractor requires, plus two copies which will be retained by Architect.

1.5 PRODUCT DATA

- A. Submit the number of copies which the Contractor requires, plus two copies which will be retained by the Architect.
- B. Mark each copy to identify applicable products, models, options, and other data. Supplement manufacturers' standard data to provide information unique to this Project.

1.6 SAMPLES

- A. Submit samples to illustrate functional and aesthetic characteristics of the Product, with integral parts and attachment devices. Coordinate sample submittals for interfacing work.
- B. Submit samples of finishes from the full range of manufacturers' standard colors, textures, and patterns for Architect's selection.
- C. Include identification on each sample, with full Project information.
- D. Submit the number or samples specified in individual specification Sections; one of which will be retained by Architect.
- E. Reviewed samples which may be used in the Work are indicated in individual specification Sections.

1.7 MANUFACTURER'S INSTRUCTIONS

- A. When specified in individual specification Sections, submit manufacturers' printed instructions for delivery, storage, assembly, installation, adjusting, and finishing, in quantities specified for Product Data.
- B. Identify conflicts between manufacturers' instructions and Contract Documents.

1.8 MANUFACTURER'S CERTIFICATES

- A. When specified in individual specification Sections, submit manufacturer's certificate to Architect for review, in quantities specified for Product Data.
- B. Indicate material or product conforms to or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
- C. Certificates may be recent or previous test results on material or Product, but must be acceptable to Architect.

PART 2 - PRODUCTS

Not Used

PART 3 - EXECUTION

Not used

END OF SECTION

SECTION 01 50 00
CONSTRUCTION FACILITIES AND TEMPORARY CONTROLS

PART 1 GENERAL

1.1 SUMMARY

A. This Section describes construction facilities and temporary controls required for the Work.

B. Related work:

1. Documents affecting work of this Section include, but are not necessarily limited to, General Conditions, Supplementary Conditions, and Sections in Division 1 of these Specifications.
2. Except that equipment furnished by subcontractors shall comply with requirements of pertinent safety regulations, such equipment normally furnished by the individual trades in execution of their own portions of the Work are not part of this Section.
3. Permanent installation and hookup of the various utility lines are described in other Sections and on the Contract Document Drawings where applicable.

1.2 REQUIREMENTS

A. Provide construction facilities and temporary controls needed for the Work including, but not necessarily limited to:

1. Temporary utilities such as water and electricity.
2. Sanitary facilities.
3. Enclosures such as tarpaulins, barricades, and canopies.
4. Emergency Preparedness supplies.

1.3 DELIVERY, STORAGE, AND HANDLING

A. Maintain temporary facilities and controls in proper and safe condition throughout progress of the Work.

PART 2 - PRODUCTS

2.1 UTILITIES

A. Water: At no cost to the Contractor, the Owner will furnish all necessary water for testing, sterilizing, flushing, and other construction purposes, subject to the following conditions:

1. Water will be available from existing water facilities, at locations designated by the Owner. The Contractor shall make all necessary arrangements and shall provide all necessary hoses, temporary pipework, portable tanks, and other equipment to convey the water to the usage locations.
2. Carefully conserve all water, and do not waste it unnecessarily.
3. Before each water delivery from the existing water facilities, obtain the Owner's prior approval of the time and duration of flow, approximate rate of flow, and approximate volume of water required.

B. Electricity: Owner will provide.

1. Electricity will be available from existing electrical facilities, at location approved by the Owner. The

Contractor shall make all necessary arrangements with local electrical utility company and shall provide all temporary wiring and temporary equipment required to convey the electricity to the usage locations.

2. Carefully conserve all electricity, and do not waste it unnecessarily.
3. Do not overload existing electrical facilities, and do not adversely affect the operation of any existing electrically operated equipment.
4. Remove all temporary electrical work promptly after it is no longer required.

2.2 SANITARY FACILITIES

- A. Provide temporary sanitary facilities in the quantity required for use by all personnel.
- B. Maintain in a sanitary condition at all times.

2.3 TEMPORARY CONSTRUCTION

A. Provide and maintain for the duration of construction all scaffolds, tarpaulins, canopies, warning signs, steps, platforms, bridges, chutes, and other temporary construction necessary for proper completion of the Work in compliance with pertinent safety and other regulations.

2.4 REMOVING AND REPLACING FENCES, SOD, ETC.

- A. Where required to install the Work, carefully remove and store all interfering fences, mailboxes, culverts, etc. After installation of work and backfilling, reinstall these items and restore them to at least the conditions which existed prior to the commencement of work, using materials and workmanship to match those of the original construction and installation.
- B. Carefully remove and store all interfering shrubbery, trees, sod, flowers, and other planting, sufficiently in advance of construction. After installation of work and backfilling, reset and restore these items to at least the conditions that existed prior to the commencement of work.
- C. Upon completion of the Work, restore all lawns to at least the conditions that existed prior to the commencement of the work.
- D. Site infrastructure damaged during the course of the Work will be replaced or repaired to at least the conditions that existed prior to the commencement of the work. These items include, though are not limited to, driveway and parking lot surfaces, sidewalks, curbs, and gutters.

2.5 EQUIPMENT AND MATERIALS STORAGE AND PROTECTION

- A. Equipment and Materials Which Will Be Installed Indoors: At all times prior to its installation within permanent facility buildings and structures which are sufficiently enclosed to provide adequate weather protection, store this equipment in dry weathertight warehouses or other shelters which will completely protect this equipment from damage by weather and other causes. Obtain Architect's prior approval of proposed storage facilities; plastic wrapping or covering alone will not be considered adequate protection.
 1. This includes but shall not be limited to all architectural finish materials and products.

B. Equipment and Materials Which Will be Installed Outdoors: At all times prior to its installation, store this equipment and these materials on pallets, skids, runners, platforms, or other suitable supports which will hold all parts of this equipment and these materials at least six inches above ground; provide watertight coverings for those stored items which may be damaged by rain or snow; all as approved.

C. Payment for Stored Materials and Equipment: No payment will be made for on-site or off-site stored materials and equipment which is not stored as specified above.

D. At Contractor's expense, provide temporary weathertight storage for materials which may be damaged by storage exposed to weather.

2.6 TRAFFIC CONTROL

A. Schedule and perform all work to interfere as little as possible with vehicular traffic flow. Poor planning and gross inconsideration of traffic flow will be just cause for the Owner to stop the Contractor's work until the unsatisfactory conditions have been remedied. Blocking of service driveways and fire lanes is prohibited.

B. Provide safety precautions and warnings in accordance with Shelby County General Conditions of the Contract for Construction.

C. Use only site entrances that have been approved by the Owner for temporary use as Construction Entrances.

2.7 EMERGENCY SUPPLIES

A. Temporary Roof Patch: Seal-X t-r-p, American Colloid Company (312) 966-5720; Four (4) 25-pound sacks, or an approved equal.

B. All Weather Plastic Cement: Two (2) 5-gallon containers.

C. Night Seal: Two (2) FP-12 Froth-Pak Kit or larger by InstaFoam Products, Inc. - Joliet, IL., or an approved equal.

D. Tarps: Two (2) 20'x100' Plastic.

E. Water Pumps: Two (2) 30-gallon per minute capacity.

F. Water Diverter: Two (2) 6'x10' Water Diverters

G. Hoses: Two (2) 25'foot hoses.

PART 3 - EXECUTION

3.1 MAINTENANCE AND REMOVAL

A. Maintain temporary facilities, controls, and emergency supplies as long as needed for safe and proper completion of the Work.

B. Remove such temporary facilities and controls as rapidly as progress of the Work will permit, or as directed by the Architect.

END OF SECTION

SECTION 01 66 00
DELIVERY, STORAGE, AND HANDLING

1 GENERAL

1.1 SUMMARY

A. Protect products scheduled for use in the Work by means including, but not necessarily limited to, those described in this Section.

B. Related Work:

1. Documents affecting work of this Section include, but are not necessarily limited to, General Conditions and Sections in Division 1 of these Specifications.
2. Additional procedures also may be prescribed in other Sections of these Specifications.

1.2 QUALITY ASSURANCE

A. Include within the Contractor's quality assurance program such procedures as are required to assure full protection of work and materials.

1.3 MANUFACTURERS' RECOMMENDATIONS

A. Except as otherwise approved by the Architect, determine and comply with manufacturers' recommendations on product handling, storage, and protection.

1.4 PACKAGING

A. Deliver products to the job site in their manufacturer's original container, with labels intact and legible.

1. Maintain packaged materials with seals unbroken and labels intact until time of use.
2. Promptly remove damaged material and unsuitable items from the job site, and promptly replace with material meeting the specified requirements, at no additional cost to the Owner.

B. The Architect may reject as non-complying such material and products that do not bear identification satisfactory to the Architect as to manufacturer, grade, quality, and other pertinent information.

1.5 PROTECTION AND HANDLING

A. Maintain finished surfaces clean, unmarred, and suitably protected until accepted by the Owner.

1.6 REPAIRS AND REPLACEMENTS

A. In event of damage to the Owner's property or to work in progress, promptly make replacements and repairs to the approval of the Architect and at no additional cost to the Owner.

B. Additional time required to secure replacements and to make repairs will not be considered by the Architect to justify an extension in the Contract Time of Completion.

END OF SECTION

SECTION 01 74 23
CLEANING

PART 1 - GENERAL

1.1 SUMMARY

A. Throughout the construction period, maintain the buildings and site in a standard of cleanliness as described in this Section.

B. Related work:

1. Documents affecting work of this Section include, but are not necessarily limited to, General Conditions and Sections in Division 1 of these Specifications.
2. In addition to standards described in this Section, comply with requirements for cleaning as described in pertinent other Sections of these Specifications.

1.2 QUALITY ASSURANCE

A. Conduct daily inspection, and more often if necessary, to verify that requirements for cleanliness are being met.

B. In addition to the standards described in this Section, comply with pertinent requirements of governmental agencies having jurisdiction.

PART 2 - PRODUCTS

1.1 CLEANING MATERIALS AND EQUIPMENT

A. Provide required personnel, equipment, and materials needed to maintain the specified standard of cleanliness.

1.2 COMPATIBILITY

A. Use only the cleaning materials and equipment which are compatible with the surface being cleaned, as recommended by the manufacturer of the material.

PART 3 - EXECUTION

1.1 PROGRESS CLEANING

A. General:

1. Retain stored items in an orderly arrangement allowing maximum access, not impeding traffic or drainage, and providing required protection of materials.
2. Do not allow accumulation of scrap, debris, waste material, and other items not required for construction of this Work.
3. At least twice each month, and more often if necessary, completely remove all scrap, debris, and waste

material from the job site.

4. Provide adequate storage for all items awaiting removal from the job site, observing requirements for fire protection and protection of the ecology.

B. Site:

1. Daily, and more often if necessary, inspect the site and pick up all scrap, debris, and waste material. Remove such items to the place designated for their storage.
2. Weekly, and more often if necessary, inspect all arrangements of materials stored on the site. Re-stack, tidy, or otherwise service arrangements to meet the requirements of subparagraph 3.1-A-1 above.
3. Maintain the site in a neat and orderly condition at all times.

C. Roof: Daily pick up all scrap, debris, material which may become air borne, and nails and other material which may damage roof if stepped on. Remove such items to the place designated for their storage.

1.2 FINAL CLEANING

A. "Clean," for the purpose of this section, and except as may be specifically provided otherwise, shall be interpreted as meaning the level of cleanliness generally provided by skilled cleaners using commercial quality building maintenance equipment and materials.

B. Prior to completion of the Work, remove from the job site all tools, surplus materials, equipment, scrap, debris, and waste. Conduct final progress cleaning as described in Article 3.1 above.

C. Site:

1. Unless otherwise specifically directed by the Architect, broom clean paved areas on the site and public paved areas adjacent to the site and completely remove resultant debris.
2. Remove all nails and other debris produced by the Work.

D. Roof: Remove all unused nails, scraps, debris, and other unused material.

E. Schedule final cleaning as approved by the Architect to enable the Owner to accept a completely clean Work.

1.3 CLEANING DURING OWNER'S OCCUPANCY

A. Should the Owner occupy the Work or any portion thereof prior to its completion by the Contractor and acceptance by the Owner, responsibilities for interim and final cleaning shall be as determined by the Architect in accordance with the General Conditions.

END OF SECTION

SECTION 01 77 19
CLOSEOUT REQUIREMENTS

PART 1 GENERAL

1.1 SUMMARY

- A. Closeout Procedures
- B. Final Cleaning
- C. Project Record Documents
- D. Operation and Maintenance Data
- E. Warranties and Bonds

1.2 RELATED WORK

- A. Agreement Between Owner and Contractor.
- B. Section 01 11 13 - Summary of the Work.
- C. Section 01 33 23 – Submittals.
- D. Shelby County General Conditions of the Contract for Construction

1.3 CLOSEOUT PROCEDURES

- A. Comply with Shelby County Government for Progress Payment Procedures for issuance of Certificate of Substantial Completion.
- B. When Contractor considers that the Work has reached final completion, submit written certification that Contract Documents have been reviewed, Work has been inspected, and that Work is complete in accordance with contract Documents and ready for the Architect's inspection.
- C. In addition to submittals required by the conditions of the Contract, provide submittals required by governing authorities, and submit a final statement of accounting giving total adjusted Contract Sum, previous payments, and sum remaining due.
- D. Architect will issue final Change Directive reflecting approved adjustments to Contract Sum not previously made by Change Directive.
- E. Submit all close-out documents and products to the Architect.

1.4 FINAL CLEANING

- A. Complete prior to final inspection.
- B. Clean interior and exterior surfaces exposed to view; remove ALL temporary labels, stains and foreign substances, clean equipment and fixtures to a sanitary condition, clean or replace filters of mechanical equipment.
- C. Thoroughly clean all exterior and interior finishes.
- D. Identify, remove and dispose of all debris and hazardous waste from site. Dispose of materials in compliance with current local, state and federal environmental requirements.

1.5 OPERATION AND MAINTENANCE DATA

- A. Provide names and addresses of manufacturers and suppliers of equipment and materials and general and subcontractors.
- B. Provide data for:
 - 1. Installed Roof System
 - 2. Any other items specifically identified in individual specification sections of this Project Manual.

C. Submit four (4) sets prior to final inspection, bound in 8-1/2" x 11" three-ring side binders with durable plastic covers, tabbed with permanent tab markers and identified on face and spine.

1. Part 1: Directory, listing names, addresses and telephone numbers of Architect/Engineer and Contractor(s).
2. Part 2: Operation and maintenance instructions arranged by system. For each system give names, addresses, and telephone numbers of subcontractors and suppliers.

Provide:

- a. Appropriate design criteria.
- b. List of Equipment
- c. Maintenance instructions, identifying required cleaning materials and solutions for removals of (i.e. graffiti, marker ink, efflorescence, Etc.)
- d. Maintenance instructions, to protect finishes.
- e. Shop drawings and product data.
- f. Warranties.

1.6 ADDITIONAL DOCUMENTATION

A. Provide the following documentation in addition to that previously specified:

1. Consent of Surety to Final Payment
2. Contractor's Affidavit of Release of Liens
3. Contractor's Affidavit of Payment of Debts and Claims.
4. Lien Waiver from all Subcontractors.
5. Non-asbestos/lead Certification.

1.7 WARRANTIES AND BONDS

A. Provide duplicate, notarized copies. Execute Contractor's submittals and assemble documents executed by subcontractors, suppliers, and manufacturers. Provide table of contents and assemble in binder with durable plastic cover.

B. Submit material prior to final application for payment. For items of Work delayed materially beyond Date of Substantial Completion, provide updated submittal within ten days after acceptance, listing(s) of ALL Manufacturers Warranties, date(s) of acceptance as start and end of warranty period(s).

C. Manufacturers Warranties:

1. Reference ALL other related specification sections.

D. Contractor Warranties:

1. Provide all Contractor's and subcontractor's materials and workmanship warranties.

1.8 PRODUCTS

A. Provide ALL Products Data with ALL other related product information to the Architect to assist the Owner with the proper maintenance, repair, or replacement re-use of all Products utilized for this Project.

1.9 SPECIAL CERTIFICATION(S)

A. Provide duplicate, notarized copies.

B. Provide certification(s) that products and materials installed are free of asbestos and comply with current local, state and federal requirements regarding use of non-asbestos materials.

C. Provide certification(s) that products and materials installed are free of lead and comply with current local, state and federal requirements regarding use of non-lead materials.

D. Provide copies of all environmentally related permits required, and fee receipts for disposal of hazardous materials from the construction site (if applicable).

1.10 FINAL ACCEPTANCE AND PAYMENT

A. Conform to Contract requirements for Final Completion and Final Payment.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not Used

END OF SECTION

SECTION 02 41 19
SELECTIVE DEMOLITION

PART 1 – GENERAL

1.1 SECTION INCLUDES

A. Demolition of designated roofing and roof insulation materials, miscellaneous rooftop items and construction as indicated on the drawings including flashings and pitch pockets, and/or curbs as may be required. All demolition shall include the removal of those demolished materials from the site and their proper disposal with the exception of items that are to be retained and properly stored for reinstallation by the Contractor.

1.2 RELATED SECTIONS

A. Section 07 55 00 Three Ply Modified Bitumen Membrane Roofing

1.3 QUALITY ASSURANCE

A. Contractor Qualifications: Minimum of five years experience in this type of demolition.
B. Meet the requirements of the local regulatory agencies.
C. Permit for transporting and disposal of debris.

1.4 JOB CONDITIONS

A. Protection:
1. Erect barriers, fences, guard rails, enclosures, chutes, dust barriers and shoring to protect personnel, property, structures, and utilities remaining intact.
2. If required by governing authorities, provide alternate routes around closed or obstructed traffic ways.

PART 2 - PRODUCTS

2.1 MATERIALS

A. Except where noted otherwise, maintain possession of materials being demolished. Immediately remove these materials from site.
B. Carefully remove, store, and protect for re-installation all materials and equipment that is noted on drawings to be relocated or re-used. Repair or replace using matching materials of equal quality, and at no cost to the Owner, all existing materials and construction not designated for removal that become damaged.

PART 3 - EXECUTION

3.1 EXAMINATION

A. Demolish designated materials in an orderly and careful manner. Examine the site and building elements shown to be removed and verify the demolition requirements with the Architect prior to beginning the work.
B. Notify the Shelby County Health Department prior to removal of any hazardous materials. After removal, notify the Owner that all hazardous materials have been removed and the work space conditions are certified safe by the Contractor's Hazardous Materials Abatement SubContractor.
C. Prior to the commencement of any demolition work all interior roof drains are to be inspected and tested for proper function. If required, the Owner is to be notified through the Architect of any roof drains which do not function properly.

3.2 PREPARATION

- A. The facility will be occupied during construction. Schedule times for operation of excessively loud or prolonged use of noisy or dust producing equipment with the Owner. Erect and maintain protective safety barriers at all times between building occupants and construction zones.
- B. Erect temporary weatherproof closures for exterior building envelope openings.
- C. Erect and maintain dustproof partitions capable of preventing the spread of dust, fumes, and smoke to occupied portions of the building. Upon completion of the work, remove partitions and repair damaged surfaces to match adjacent existing surfaces.

3.3 DEMOLITION REQUIREMENTS

- A. Perform demolition in accordance with the requirements of applicable authorities having jurisdiction.
- B. Repair all demolition performed in excess of that required, at no cost to the Owner.
- C. Remove only non-structural elements. Do not cut or alter structural elements without specific authorization from the Architect.
- D. Perform all concrete and masonry cutting using power-driven saws to achieve straight, even surfaces. Power impact tools are prohibited from use.
- E. Burning of materials on site is not permitted.
- F. Remove from site contaminated, vermin infested or dangerous materials encountered and dispose of by safe means so as not to endanger health of workers and public.
- G. Carry out demolition work in a manner that will cause as little inconvenience as possible to adjacent occupied building areas and adjacent building construction.
- H. Remove demolished materials, tools, and equipment from site upon completion of work. Leave site in a condition acceptable to the Owner.
- I. Erect and maintain weatherproof closures for exterior openings. Skylights, mechanical equipment, and other items to be removed shall be put back in place, replaced, or their openings shall be made watertight by the end of each workday.
- J. No more roofing material may be removed than can be replaced the same day. The removal of the roofing material must be coordinated with sections of Section 07 55 00 "Three Ply Modified Bitumen Membrane Roofing" to maintain moisture protection for the building interior at all times. Upon Commencement of the tearoff operations the Contractor assumes full responsibility for moisture infiltration into the building envelope and ensuing damages.
The existing roofing system and all attachments shall be completely removed, leaving the exposed structural deck in a clean and uncluttered condition and ready for the installation of the new roof system.
- K. Disconnect and reconnect plumbing, mechanical, and electrical items as required by properly licensed workers to prevent disruption of the operation of the facility. Provide for uninterrupted temporary utility services for 24/7 operations or schedule disconnections for evenings and weekends to avoid disruption of operations within the building for standard work day schedule operations. Note that the activities of some of the building occupants operate on a 24/7 basis and may not be without utility service at any time. Schedule all work in advance with the Owner.
- L. Prior to new construction, final completion of demolition work, all damaged conditions revealed after demolition materials are removed shall be repaired and made whole prior to installation of any new roofing construction materials.

3.4 CUTTING AND DRILLING

- A. Perform cutting with hand tools or with small power-driven tools. Cut holes and slots neatly to size required with the minimum disturbance to adjacent work.

B. Where required, cut round holes in concrete slabs and masonry walls with core drills of required sizes. Saw cut rectangular holes with power-driven tools.

C. Cover openings temporarily when not in use and patch openings as soon as new work is in place.

END OF SECTION

SECTION 06 10 53
MISCELLANEOUS ROUGH CARPENTRY

1 – GENERAL

1.1 RELATED DOCUMENTS

A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

A. This Section includes the following:

1. Wood blocking, cant strips, nailers, and miscellaneous wood rough carpentry.

1.3 DEFINITIONS

A. Dimension Lumber: Lumber of 1” inch nominal or greater in thickness but not greater than 12 inches nominal in width.

B. Lumber grading agencies, and the abbreviations used to reference them, include the following:

1. NeLMA: Northeastern Lumber Manufacturers' Association.
2. NHLA: National Hardwood Lumber Association.
3. NLGA: National Lumber Grades Authority.
4. SPIB: The Southern Pine Inspection Bureau.
5. WCLIB: West Coast Lumber Inspection Bureau.
6. WWPA: Western Wood Products Association.

1.4 SUBMITTALS

A. Product Data: For each type of process and factory-fabricated product. Indicate component materials and dimensions and include construction and application details.

1. Include data for wood-preservative treatment from chemical treatment manufacturer and certification by treating plant that treated materials comply with requirements. Indicate type of preservative used and net amount of preservative retained.

1.5 QUALITY ASSURANCE

A. Forest Certification: For the following wood products, provide materials produced from wood obtained from forests certified by an FSC-accredited (Forest Stewardship Council) certification body to comply with FSC 1.2, "Principles and Criteria":

1. Miscellaneous lumber.

1.6 DELIVERY, STORAGE, AND HANDLING

A. Stack lumber flat with spacers between each bundle to provide air circulation. Provide for air circulation around stacks and under coverings.

B. Deliver interior wood materials that are to be exposed to view only after building is enclosed and weatherproof, wet work other than painting is dry, and HVAC system is operating and maintaining temperature and humidity at occupancy levels.

PART 2 - PRODUCTS

2.1 WOOD PRODUCTS, GENERAL

A. Lumber: DOC PS 20 and applicable rules of grading agencies indicated. If no grading agency is indicated, provide lumber that complies with the applicable rules of any rules-writing agency certified by the ALSC Board of Review. Provide lumber graded by an agency certified by the ALSC Board of Review to inspect and grade lumber under the rules indicated.

1. Factory mark each piece of lumber with grade stamp of grading agency.
2. Where nominal sizes are indicated, provide actual sizes required by DOC PS 20 for moisture content specified. Where actual sizes are indicated, they are minimum dressed sizes for dry lumber.
3. Provide dressed lumber, S4S, unless otherwise indicated.

2.2 WOOD-PRESERVATIVE-TREATED MATERIALS

A. Preservative Treatment by Pressure Process: AWWA C2.

1. Preservative Chemicals: Acceptable to authorities having jurisdiction and containing no arsenic or chromium.
2. For exposed items indicated to receive a stained or natural finish, use chemical formulations that do not require incising, contain colorants, bleed through, or otherwise adversely affect finishes.

B. Kiln-dry lumber after treatment to a maximum moisture content of 19 percent. Do not use material that is warped or does not comply with requirements for untreated material.

C. Mark lumber with treatment quality mark of an inspection agency approved by the ALSC Board of Review.

D. Application: Treat items indicated on Drawings, and the following:

1. Wood cants, nailers, curbs, equipment support bases, blocking, stripping, and similar members in connection with roofing, flashing, vapor barriers, waterproofing, masonry, and concrete.

2.3 MISCELLANEOUS LUMBER

A. General: Provide miscellaneous lumber indicated and lumber for support or attachment of other construction, including the following:

1. Blocking.
2. Nailers.
3. Rooftop equipment bases and support curbs.
4. Cant Strips

B. For items of dimension lumber size, provide Construction or No. 2 grade lumber with 15 percent maximum moisture content and any of the following species:

1. Hem-fir (north); NLGA.
2. Mixed southern pine; SPIB.
3. Spruce-pine-fir; NLGA.
4. Hem-fir; WCLIB, or WWPA.
5. Spruce-pine-fir (south); NeLMA, WCLIB, or WWPA.
6. Western woods; WCLIB or WWPA.
7. Northern species; NLGA.
8. Eastern softwoods; NeLMA.

C. For blocking not used for attachment of other construction Utility, Stud, or No. 3 grade lumber of any species may be used provided that it is cut and selected to eliminate defects that will interfere with its attachment and purpose.

D. For blocking and nailers used for attachment of other construction, select and cut lumber to eliminate knots and other defects that will interfere with attachment of other work.

E. For furring strips for installing plywood or hardboard paneling, select boards with no knots capable of producing bent-over nails and damage to paneling.

2.4 FASTENERS

A. General: Provide fasteners of size and type indicated that comply with requirements specified in this Article for material and manufacture.

1. Where carpentry is exposed to weather, in ground contact, pressure-preservative treated, or in area of high relative humidity, provide fasteners with hot-dip zinc coating complying with ASTM A 153/A 153M or of Type 304 stainless steel.

B. Nails, Brads, and Staples: ASTM F 1667.

C. Power-Driven Fasteners: NES NER-272.

D. Wood Screws: ASME B18.6.1.

E. Screws for Fastening to Cold-Formed Metal Framing: ASTM C 954, except with wafer heads and reamer wings, length as recommended by screw manufacturer for material being fastened.

F. Lag Bolts: ASME B18.2.1.

G. Bolts: Steel bolts complying with ASTM A 307, Grade A; with ASTM A 563 hex nuts and, where indicated, flat washers.

H. Expansion Anchors: Anchor bolt and sleeve assembly of material indicated below with capability to sustain, without failure, a load equal to 6 times the load imposed when installed in unit masonry assemblies and equal to 4 times the load imposed when installed in concrete as determined by testing per ASTM E 488 conducted by a qualified independent testing and inspecting agency.

1. Material: Carbon-steel components, zinc plated to comply with ASTM B 633, Class Fe/Zn 5.

2. Material: Stainless steel with bolts and nuts complying with ASTM F 593 and ASTM F 594, Alloy Group 1 or 2.

PART 3 – EXECUTION

3.1 INSTALLATION, GENERAL

A. Set carpentry to required levels and lines, with members plumb, true to line, cut, and fitted. Fit carpentry to other construction; scribe and cope as needed for accurate fit. Locate nailers, blocking, and similar supports to comply with requirements for attaching other construction.

B. Provide blocking and framing as indicated and as required to support facing materials, fixtures, specialty items, and trim.

C. Sort and select lumber so that natural characteristics will not interfere with installation or with fastening other materials to lumber. Do not use materials with defects that interfere with function of member or pieces that are too small to use with minimum number of joints or optimum joint arrangement.

D. Comply with AWWA M4 for applying field treatment to cut surfaces of preservative-treated lumber.

1. Use inorganic boron for items that are continuously protected from liquid water.

2. Use copper naphthenate for items not continuously protected from liquid water.

E. Securely attach carpentry work to substrate by anchoring and fastening as indicated, complying with the following:

1. NES NER-272 for power-driven fasteners.

2. Table 2304.9.1, "Fastening Schedule," in ICC's International Building Code.

3. Table 23-II-B-1, "Nailing Schedule," and Table 23-II-B-2, "Wood Structural Panel Roof Sheathing Nailing Schedule," in ICBO's Uniform Building Code.

4. Table 2305.2, "Fastening Schedule," in BOCA's BOCA National Building Code.

5. Table 2306.1, "Fastening Schedule," in SBCCI's Standard Building Code.

F. Use common wire nails, unless otherwise indicated. Select fasteners of size that will not fully penetrate

members where opposite side will be exposed to view or will receive finish materials. Make tight connections between members. Install fasteners without splitting wood; do not countersink nail heads, unless otherwise indicated.

3.2 WOOD BLOCKING, AND NAILER INSTALLATION

- A. Install where indicated and where required for attaching other work. Form to shapes indicated and cut as required for true line and level of attached work. Coordinate locations with other work involved.
- B. Attach items to substrates to support applied loading in accordance with applicable building codes and roofing manufacturers specifications. Recess bolts and nuts flush with surfaces, unless otherwise indicated.
- C. Provide permanent grounds of dressed, pressure-preservative-treated, key-beveled lumber not less than 1-1/2 inches wide and of thickness required to bring face of ground to exact thickness of finish material. Remove temporary grounds when no longer required.
- D. Secure shims simultaneously with overlying solid wood nailer. Shim material must be continuous. Spaced shims are not acceptable.

3.3 PROTECTION

- A. Protect wood that has been treated with inorganic boron (SBX) from weather. If, despite protection, inorganic boron-treated wood becomes wet, apply EPA-registered borate treatment. Apply borate solution by spraying to comply with EPA-registered label.
- B. Protect rough carpentry from weather. If, despite protection, rough carpentry becomes wet, apply EPA-registered borate treatment. Apply borate solution by spraying to comply with EPA registered label.

END OF SECTION

SECTION 07 55 00
THREE PLY MODIFIED BITUMEN MEMBRANE ROOFING

PART I - GENERAL

1.01 DESCRIPTION

A. Work includes:

1. Installation of a high thermal rigid board roof insulation attached with mechanical fasteners to a structural steel roof deck. Subsequent layers set in hot asphalt.
 2. Hot mopped SBS modified bitumen roof membranes and membrane flashings (2 ply base)
 3. Hot mopped white mineral granulated SBS modified bitumen membrane cap sheet.
 4. Roof insulation cover board.
 5. Sheet metal roof flashings, trim, copings, counterflashings, reglets, termination bars, etc. as required for a watertight 20 year warrantied roof system application.
 6. Miscellaneous rough carpentry for nailers, wood cants, curbs, and blocking.
 7. Preformed and/or job assembled roof accessories including pitch pans, vent pipe boots, vent stack caps, etc.
5. Applicator is SOLELY responsible for accuracy of all measurements and estimates of material, quantities, and sizes.

B. Related Sections:

1. 02 41 19 Selective Demolition
2. 06 10 53 Miscellaneous Rough Carpentry
3. 07 62 00 Sheet metal Flashing and Trim
4. 07 92 00 Sealants and Caulking

1.02 REFERENCE STANDARDS

A. American Society for Testing and Materials (ASTM):

- ASTM D-41 - Asphalt Primer
ASTM C-1289-02, Type II - Insulation Boards, Thermal, Polyisocyanurate Foam Faced with Asphalt/Glass Mat, or Polymer Glass Mat on Both Sides of Foam. (4" Minimum Composite Thickness)
ASTM E136 - Insulation Protection Board
ASTM D-312 - Type IV (4) - Asphalt used for insulation and roof membrane adhesive installation.
Modified mastic as recommended by the manufacturer - (Johns Manville MBR Utility Cement)
ASTM D-5147 - Sampling and Testing Modified Bituminous Sheet Material.
ASTM D-2178 - Type VI (6) Asphalt Glass Felt used in roofing.
ASTM D-6162 - Type II, Grade G. SBS Sheet Materials using a combination of polyester and fiberglass reinforcements with granular top membrane surfacing.

B. Underwriters Laboratories - U.L. Class A Fire Rating for entire roof system. System shall be listed in the current U.L. Building Materials Directory.

C. Factory Mutual Engineering Corp.: Class 1, Wind Rating, IA-90 Approval, as determined in accordance with FMRC Standard 4470.

1.03 QUALITY ASSURANCE

Installer Qualifications: An employer of workers trained and certified by manufacturer, including a full-time on-site supervisor with a minimum of five years experience installing products comparable to those specified, able to communicate verbally with Contractor, Architect, and employees, and qualified by the manufacturer to install manufacturer's product and furnish warranty of type specified.

Manufacturer Qualifications: Approved manufacturer listed in this Section, UL listed FM Approvals approved for roofing systems identical to that specified for this Project, with minimum five years experience in manufacture of specified products in successful use in similar applications.

Approval of Comparable Products: Submit the following in accordance with project substitution requirements, within time allowed for substitution review:

Product data, including certified independent test data indicating compliance with requirements.

Samples of each component.

Sample submittal from similar project.

Project references: Minimum of five installations of specified products not less than five years old, with Owner and Architect contact information.

Sample warranty.

Substitutions following award of contract are not allowed except as stipulated in Division 01 General Requirements.

Approved manufacturers must meet separate requirements of Submittals Article.

Roofing Inspector Qualifications: A technical representative of manufacturer not engaged in the sale of products and experienced in the installation and maintenance of the specified roofing system, qualified to perform roofing observation and inspection specified in Field Quality Control Article, to determine Installer's compliance with the requirements of this Project, and approved by the manufacturer to issue warranty certification. The Roofing Inspector shall be one of the following:

An authorized full-time technical employee of the manufacturer.

An independent party certified as a Registered Roof Observer by the Roof Consultants Institute, retained by the Contractor or the Manufacturer and approved by the Manufacturer.

Preinstallation Roofing Conference: Conduct conference at Project site.

Meet with Owner, Architect, , Owner's insurer if applicable, testing and inspecting agency representative, roofing Installer, roofing system manufacturer's representative,, and installers

whose work interfaces with or affects roofing, including installers of roof accessories and roof-mounted equipment.

Review methods and procedures related to roofing installation, including manufacturer's written instructions.

Review and finalize construction schedule and verify availability of materials, Installer's personnel, equipment, and facilities needed to make progress and avoid delays.

Examine substrate conditions and finishes for compliance with requirements, including flatness and fastening.

Review base flashings, special roofing details, roof drainage, roof penetrations, equipment curbs, and condition of other construction that will affect roofing system.

Review governing regulations and requirements for insurance and certificates if applicable.

Review temporary protection requirements for roofing system during and after installation.

Review roof observation and repair procedures after roofing installation.

1.04 PRE-ROOFING CONFERENCE

A. Hold roofing pre-construction conference at the project site, not more than one week prior to beginning roofing.

B. Attendance is mandatory for: roofing sub-contractor, roofing foreman, contractor's superintendent, roofing manufacturer's representative and Architect's representative, Owner's representative, mechanical subcontractor, sheet metal subcontractor, and anyone else responsible for items penetrating or in contact with roof.

C. Agenda:

1. Review in detail Architect's specifications, roof plans and all roof and flashing details.
2. If a manufacturer's specification is used, review and resolve all deviations or differences from the Architect's specifications.
3. Review and understand Factory Mutual and Underwriters Laboratories requirements and resolve all conflicts between FM or UL specifications and the Architect's/manufacturer's specifications.
4. Review roof plans for slope, deck type, drainage, membrane attachment, expansion joints, flashing and details. Resolve all conflicts regarding what is considered good roofing practice and the specifications.
5. Review proposed roofing system and recommended work practices for its installation.
6. Study all plans to determine all various roof area requirements.
7. Designate which areas on site will be available for use as storage and working areas.
8. Review procedures to be followed to provide proper protection of roof system during and after construction of roof.

1.05 SUBMITTALS

A. Manufacturer's recommended methods of installation and data to demonstrate compliance with specified requirements.

B. Manufacturer's written agreement to issue specified guarantee on the specified roof system when installed by successful bidding roofing contractor.

1.06 DELIVERY, STORAGE & HANDLING

- A. Store materials in a cool, dry place.
- B. Store roll material on end on clean, dry, raised surface.
- C. Place insulation on raised surface and protect with waterproof tarpaulins, with sufficient air circulation to prevent condensation.
- D. Do not install wet insulation.
- E. Store solvents, emulsions, and coatings in a cool, dry area between 45 and 100 degrees F.
- F. Handle roll-materials to prevent damaged ends.
- G. Allow no unlabeled materials on site.

1.07 PROJECT CONDITIONS

- A. Do not start roofing if rain is imminent or ambient temperature is below 45 degrees F.
- B. If rain occurs during roof membrane application, cease operations and protect deck, insulation, penetrations and membrane from water damage and intrusion.
- C. Remove and replace all material that has been subject to moisture.
- D. Protect finished surfaces of building from damage by installation of roofing system.
- E. Protect completed roofing and flashings from damage by subsequent roofing installation and construction traffic.
- F. In event of damage, immediately make all repairs and replacements required by Architect.
- G. Comply with all applicable code, fire and safety regulations.
- H. Flame-heated Equipment
 - 1. Locate and use flame-heated equipment so as not to endanger the structure or other materials on the site or adjacent property.
 - 2. Do not place flame-heating equipment on roof.
 - 3. Provide and maintain adequate fire extinguishers, hoses, and tarps for emergency conditions.

1.08 SUBSTITUTION

- A. When a particular-make or trade name is specified, it shall indicate the standard required. Bidders proposing substitutes shall submit following ten (10) days prior to bid date to Architect.
 - 1. Written request with explanation of why it should be considered.
 - 2. Manufacturer's literature and samples of requested substitutions.
 - 3. Three (3) job references available for inspections within fifty (50) miles of Architect where substitutes were used under similar conditions.
 - 4. Completed CSI formatted substitution request.
 - 5. Provide copy of substitution system warranty.
- B. Only substitutes approved in writing by Owner/Architect prior to scheduled bid date will be considered.

1.09 WARRANTY

Warranty, General: Warranties specified shall be in addition to, and run concurrent with, other warranties required by the Contract Documents. Manufacturer's disclaimers and limitations on product warranties do not relieve Contractor of obligations under requirements of the Contract Documents.

Roof System Warranty, General: Warranties specified in this Section include the following components and systems specified in other sections supplied by the roofing system Manufacturer, and installed by the roofing system Installer:

Sheet metal flashing and trim, including roof penetration flashings.
Manufactured copings, roof edge, counterflashings, and reglets.
Roof curbs, hatches, and penetration flashings.
Roof and parapet expansion joint assemblies.

Special Warranty: Manufacturer's standard or customized form, in which manufacturer agrees to repair or replace components of built-up roofing that fail in materials or workmanship within specified warranty period. Failure includes roof leaks.

Special warranty includes roofing membrane, base flashings, roofing membrane accessories roof insulation fasteners cover boards and other components of built-up roofing.

Warranty Period: 20 years from date of Substantial Completion.

Installer's Warranty: Submit roofing Installer's warranty, on warranty form at end of this Section, signed by Installer, covering the Work of this Section and related Sections indicated above, including all components of built-up roofing such as built-up roofing membrane, base flashing, roof insulation, fasteners, cover boards, substrate boards, vapor retarders, roof pavers, and walkway products, for the following warranty period:

Warranty Period: Twenty (20) years from date of Substantial Completion.

PART II - PRODUCTS

2.01 MANUFACTURER

1. Roofing System Basis of Design:
Johns Manville 3PID with 20 year warranty.
2. Equal as approved by Architect.

2.02 MATERIALS

A. Insulation:

Factory Mutual Class I, Polyisocyanurate Foam Faced with Asphalt/Glass Mat, or Polymer Glass Mat on Both

Sides of Foam and complying with ASTM C-1289-02, Type II, Class 1, Grade 2. Long Term Thermal Resistance to be no less than (9) as determined by CAN/ULC 5 770. Minimum installed thickness of 4" Johns Manville E'NRG'Y 3 Roof Insulation or equal.
Tapered Insulation (As required at crickets)

B. Insulation Securement:

Steel Deck: --Fasteners: Screws and metal plates shall be tested and approved by Factory Mutual in accordance with their standard 4470 and listed in the current FM Approval Guide as such.
-Asphalt conforming to Type IV, ASTM D-312, as supplied by a source acceptable to the primary roofing manufacturer and eligible for inclusion under the coverage of the specified guarantee.

C. Insulation Protection Board: 1/4" thick. Fiberglass mat faced, noncombustible high density panel selected from manufacturer's standard sizes.

1. Acceptable Products (substitutions only as approved by Architect).
 - a. Dens Deck Prime as manufactured by Georgia Pacific ASTM E136
 - b. Invinso Roof Board as manufactured by Johns Manville ASTM C1289

D. Membrane Roofing:

1. Cover areas shingle-fashion with a 3-ply progressive composition modified bitumen roof system, consisting of Type IV asphalt, ASTM D-6163 Dynabase then ASTM D-2178 Type VI ply felt and covered with a U.L. Class A SBS Modified Bitumen polyester reinforced Cap Sheet with factory applied white granule surface.
2. Ply Felts: Asphalt coated fiberglass ply felt conforming to ASTM D-2178, Type VI.
Johns Manville GlasPly Premier.
3. Modified Bitumen Cap Sheet: ASTM D-6163, Type II, Grade G. Fiberglass reinforced, fire rated, SBS modified bitumen sheet with white granule surface. Nominal thickness shall be 160 mils. Nominal weight shall be 105 lbs. per 1 sq. roll. Johns Manville Dynalastic 250 FR.
4. Interply moppings of asphalt and insulation adhesive shall be Type IV, ASTM D-312, as supplied by a source acceptable to the primary roofing manufacturer and eligible for inclusion under the coverage of the specified guarantee.

E. Base Flashing:

1. Reinforced Modified Bitumen membrane flashing consisting of a fiberglass scrim and polyester mat reinforcement, an elastomeric base material of SBS rubber and asphalt, with a white ceramic granule surface. 160 mils. (4mm) thick, 105 lbs. per 100 sf. Johns Manville Dynalastic 250 (or Dynaflex per manufacturers recommendations) . Must be adhered with asphalt or Johns Manville MBR Utility Cement.
2. Flashing Cement: Modified Bitumen flashing cement as recommended by roofing manufacturer. Johns Manville MBR Utility Cement as required.

F. Composition Stripping at Gravel Stops and Metal Flanges:

1. Asphalt: ASTM-D-312, Type IV
2. Set primed metal flange in bed of MBR Utility Cement and secure to nailer per NRCA published details.
3. Cover this primed flange with reinforced modified bitumen membrane flashing consisting of a fiberglass scrim and polyester mat reinforcement, an elastomeric base material of SBS rubber and asphalt, with a white ceramic granule surface. 160 mils. (4mm) thick, 105 lbs. per 100 sf. Johns Manville Dynalastic 250. Must be continuously applied in a full mopping of Type IV roofing asphalt.

G. Roof Walk Pads:

Preformed, skid-resistant boards consisting of modified asphalt, reinforcements and fillers with a ceramic granule surface on both sides. Dimension shall be 32" x 32" x 5/16". Johns Manville DynaTred Roof Walkway.

H. Cant Strip and Nailers:

Treated wood. 2" nominal thickness.

I. Expansion Joint Cover: Johns Manville Expand-O-Flash (where designated on drawings)

A weatherproof, non-reinforced elastomeric bellows with closed cell foam backer and bifurcated attachment to metal mounting flanges.

Bellows: Type E , 060" (1.6mm) EPDM, black

Foam Backer: Minimum thickness 3/8" (9.5mm)

Flange Style: 1) CF at Curb to Wall Detail

2) CF at Curb to Curb

Flange Metal: Aluminum (.032")

Corners and Intersections: To be prefabricated by the manufacturer

Must be covered by, Twenty (20) year Primary Roofing Manufacturer's System Guarantee.

J. Pitch Pan Filler:

1. Non shrink grout

2. 2 part pourable pitch pan sealant

K. Gas Pipe Supports:

Pipes of 1½" in Diameter and Less: Adhere Johns Manville DynaTred Walkway Pads directly to the un-surfaced membrane with hot asphalt. Loose lay a treated 4" x 4" wood block on this. Install a loose-fitting metal strap around pipe to keep block in position.

Pipes Greater than 1½" in Diameter: Construct a curb, resting on and secured to the deck, in accordance with NRCA Detail L-2. Provide a roller device as shown in their Detail S.

L. Flexible Conduit Flashing Hood :

Versa Line Flashing Model ML/S one piece slipover flexible cable and conduit hood flashing assembly as manufactured by SBC Industries, 1765 Opa Locka Blvd, Miami, FL 33054, 1 800 228 2580.

M. Pre formed vent boots with stainless steel clamping bands.

N. Termination bars shall be 1" wide and .098" thick extruded aluminum bar pre punched 6" oc and incorporating a sealant edge to support sealant and provide increased stability.

O. Sheet Metal and Flashing Trim: Refer to Section 07 62 00 Sheet Metal Flashing and Trim.

P. All other materials not specifically described, but required for a complete and proper installation of roofing, shall be selected by approved manufacturer and subject to approval of Architect/Owner.

PART III - EXECUTION

3.01 PREPARATION

A. Surface Preparation:

1. Inspect steel deck closely for:

Proper securement of panels to joists with no loose decking.

Side lap fasteners in place.

Damaged panels.

Corrosion.

Unacceptable areas should be brought to the attention of the General Contractor and Project Architect prior to installation of roofing system.

2. Ensure that wood blocking has been installed as detailed in the plans and specifications.

3. Make sure that all counterflashing receivers, curbs, etc., are constructed in such a manner as to provide a minimum 8" base flashing height measured from the finished roof's surface to the top of the base flashing membrane.

3.02 INSULATION INSTALLATION

A. Base Layer of Insulation (Steel Deck): Starting at the low edge of the roof, mechanically attach one layer of roofing insulation using fasteners at the prescribed rate to achieve FM IA-90 uplift resistance. Use additional fasteners at perimeters and corners as prescribed in the Factory Mutual I-28 publication. Fasteners shall be no closer than 6" to the board edge. Fasteners must be sized to engage only the top flange of the deck and penetrate no less than 3/4".

B. Install boards with long joints continuous and running in a direction parallel to the decking. Short joints should be staggered. Joints should be butted tightly.

C. Subsequent Layers of Insulation: Offsetting all vertical joints by a minimum of 6", solidly adhere additional roof insulation layers using a 33 lb. per square application of Type IV asphalt applied at the EVT temperature. Step in each board to ensure maximum adhesion. Joints should be butted tightly. Open joints of 1/4" or wider must be filled with like kind filler insulation material.

D. Form crickets and saddles by solidly adhering tapered insulation panels over top layer of insulation using full 33 lb. per square moppings of steep asphalt as necessary to provide positive drainage at all portions of the roof area. Board edges shall be butted tightly with no gaps of a 1/4" or larger between them. Gaps of such size must be filled to top surface level with scrap insulation. Install tapered insulation in the same manner.

E. If it is found after membrane installation that additional crickets or tapered insulation is required, cut out the underlying membrane and prime the surface of the roofing insulation prior to installation of the new crickets.

F. Apply no more insulation than can be completely covered with the roofing membrane on same day.

3.03 MEMBRANE INSTALLATION

A. Base and Ply Felts: Starting at the low edge of the roof, using fiberglass base sheet Dynabase with a half sheet

then use full sheets, then using fiberglass ply VI felt start with a 12" width, then a 24" width. Following 36" wide felts are to be applied full width, overlapping the preceding felts by 24 2/3" so that at least 2 plies of felt cover the substrate at all locations. Install each felt so that it is firmly and uniformly set, without voids, into the hot asphalt. Asphalt temperatures should be at the Equiviscous Temperature (EVT). Asphalt should be applied just in front of the roll of felt at a nominal rate of 23 lbs. per square over the entire surface. Asphalt must bleed out from the side-laps at all locations. Lightly broom ply sheets to ensure proper adhesion. Dry edges of any depth will not be tolerated and must be corrected prior to installation of the modified bitumen cap sheet to avoid creating dry voids within the membrane assembly.

B. Modified Bitumen Cap Sheet -- Start once again at the low edge of the roof and roll a full width of Johns Manville Dynalastic 250 FR hot mopped on full uniform fashion. The remaining sheets are to be applied in the same manner with 4" side and end laps. Mop lead distances shall not exceed 6'. Lightly broom in modified sheet immediately after installation to ensure intimate contact with fluid bitumen and to ensure that it remains completely embedded and adhered in same. Lightly step in side laps to ensure that they are sealed. Asphalt temperatures should be 400oF, or at the Equiviscous Temperature (EVT), whichever is higher. Asphalt should be applied just in front of the roll of felt at a nominal rate of 23 lbs. per square over the entire surface. Asphalt must bleed out past the edge of the sheet by a minimum 1/4". Before the asphalt has an opportunity to cool, drop loose white granules into the fluid bitumen.

C. Johns Manville's 3PID Modified Bitumen Specifications are an integral part of this specification.

D. Steep-Sloped Areas (1/2" per foot or greater):

Install nailers per manufacturers' published recommendations to act as insulation blocks and for backnailing roofing plies. Nailers should be installed in a direction perpendicular to the direction of slope and insulation boards must be cut to fit tightly between the nailers.

All plies of the roofing membrane must run in a direction parallel to the direction of slope. Endlaps at the upper end of each roll must terminate at and be nailed to the wood nailer a max. 8" on-center using 1" tin-capped nails. All manufacturers' published backnailing recommendations must be followed.

E. Cold Weather (below 50oF.) Application of Modified Bitumen: Asphalt must be used which has an EVT that can accommodate a minimum mop temperature of 425o. NEVER lay modified rolls on their side. Before starting each day, unroll several rolls of Dynalastic 250 FR completely and turn over so that the black underside is exposed to the sun. This will warm the sheet to allow it to relax after proper warming. A close heating technique is mandatory. Limit the heat lead to a maximum of 4' in front of the roll and immediately unroll the sheet into the hot asphalt. Edges should be 'scuffed in' immediately after rolling the sheet in the asphalt. It is critical that the laps be firmly adhered in the hot asphalt. Asphalt should always extrude from the entire lap.

3.04 FLASHING INSTALLATION

A. Preparation: Inspect walls, curb heights, counterflashings, etc., and check for conformance with minimum base flashing height of eight (8").

B. Primer: Prime all masonry, metal, or concrete surfaces from the top of the roof membrane to the termination of the flashing level with asphalt primer at the rate of one (1) gallon per 100 square feet or as

recommended by the manufacturer. Allow the primer to dry thoroughly.

C. Install Johns Manville DynaFlex base flashing at all intersections formed by vertical surfaces, and wherever curbed roof openings, wall, parapets, or other structure joint or penetrate roof.

The back of the DynaFlex and the substrate shall both be mopped with asphalt at no less than the EVT temperature or 400oF, whichever is higher, prior to installation.

All wall and curb flashings shall be nailed at their top edge in strict accordance with Johns Manville Flashing Specifications using 1" termination bar immediately after flashing membrane installation.

D. Install flashing in accordance with roofing manufacturers' specification.

E. All vertical laps shall be stripped-in with a three (3) course application of MBR Utility Cement and fabric and painted with aluminum emulsion roof coating after it has had a few days to weather.

F. Membrane Flashings at Metal Flanges (gravel stops, vents, etc): All flange type flashings (except lead flanges at drains) such as gravel stops and vents shall be primed, set in at approximately 1/8" - thick, and securely stagger nailed 3" on center.

The flange shall then be stripped in with a minimum 8" wide strip of reinforced modified bitumen base flashing, Johns Manville Dynalastic 250, after application of the cap sheet.

As an alternate, and if scheduling allows, sheet metal flanges may be stripped in over the base ply membrane using one ply of MB base felt prior to installation of the cap sheet.

G. All lead flange type flashings (at drains and lead stacks) shall be primed and set in mastic at approximately 1/8" thick. The flange shall then be stripped in with a reinforced modified bitumen base flashing, Johns Manville Dynalastic 250, after application of the cap sheet. Flashing shall extend a minimum 4" past the edge of the metal flange.

As an alternate, and if scheduling allows, sheet metal flanges may be stripped in over the base ply membrane using one ply of MB base felt prior to installation of the cap sheet.

H. Roof-walk: Install in locations indicated with a 6" gap between planks in accordance with manufacturer's recommendations.

J. Expansion Joint Covers: Install Johns Manville's Expand-O-Flash as required on the drawings and/or by the manufacturer for specific situations. Material shall have an aluminum flange, EPDM bellows, and where possible shall be the CF configuration mounted on minimum 8" curbs.

3.05 PROTECTION OF PROPERTY

A. Protective Coverings:

1. Install protective coverings at paving and building walls adjacent to hoist and kettles prior to starting work.
2. Lap protective coverings at least 6", secure against wind, and vent to prevent collection of moisture on covered surfaces.
3. Keep protective coverings in place for duration of roofing work.

B. Special Protection:

Provide approved special protection and avoid heavy traffic on completed work.

C. Dripping of Bitumen:

Seal joints in and at edges of deck as necessary to prevent dripping of bitumen into building or down exterior walls.

D. Damaged Work and Materials:

Restore work and materials damaged during handling of bitumen and installation of roofing materials to original condition or replace with new materials.

3.06 INSPECTION:

A. Have an authorized representative of manufacturer supplying roofing system, perform two (2), in progress inspections and provide written confirmations.

B. One (1) Final Inspection after job completion shall be made by principal manufacturer's representative in the company of the Owner's representative.

END OF SECTION

SECTION 07 62 00
SHEET METAL FLASHING AND TRIM

PART 1 – GENERAL

1.1 SECTION INCLUDES

- A. Coping/Wall Caps.
- B. Counterflashings over base flashings.
- C. Counterflashings for roof hatches.
- D. Counterflashings at roof mounted equipment and vent stacks.

1.2 RELATED SECTIONS

- A. Related Sections include the following:
 - 1. Section 07 55 00 Three Ply Modified Bitumen Membrane Roofing
 - 2. Section 06 10 53 Miscellaneous Rough Carpentry

1.3 SUBMITTALS

- A. Submit under provisions of Section 0133 23.
- B. Product Data: Color chart and information about factory coating.
- C. Shop Drawings: Indicate material profile, jointing pattern, jointing details, fastening methods, flashings, terminations, and installation details.

1.4 QUALITY ASSURANCE

- A. Perform work in accordance with standard NRCA and SMACNA details and requirements.

1.5 QUALIFICATIONS

- A. Fabricator and Installer: Company specializing in sheet metal flashing work with 5 years experience.

1.6 DELIVERY, STORAGE, AND HANDLING

- A. Stack performed and prefinished material to prevent twisting, bending, or abrasion, and to provide ventilation. Slope metal sheets to ensure drainage.
- B. Prevent contact with materials which may cause discoloration or staining.

1.7 WARRANTY

- A. Provide a warranty against defects in workmanship and material for a period of 20 years.

PART 2 - PRODUCTS

2.1 SHEET MATERIALS

- A. Galvanized Steel: ASTM A653/A653M; structural steel sheet, G90 (Z275) zinc coating; 24 gauge, or as otherwise indicated on drawings.
- B. Pre-Finished Galvanized Steel: ASTM A446, Grade A, G90 zinc coating; minimum thickness 24 gage core steel, shop pre-coated with fluoropolymer coating color as selected from manufacturer's standard, equal to PACCLAD by Petersen Aluminum; color as selected from manufacturer's standard.

2.2 ACCESSORIES

- A. Fasteners: Same material and finish as flashing metal.
- B. Slip Sheet: Rosin sized building paper.
- C. Primer: Compatible with roofing membrane.
- D. Protective Backing Paint: Compatible with roofing membrane.
- E. Sealant: Elastomeric Sealant as approved by selected roofing manufacturer for use in sealing metal flashing joints and ability to form a component of the overall installed roof system warranty. Material shall meet ASTM C-920-87, Type S Grade NS, Class 25 testing standards.

2.3 FABRICATION

- A. Form sections true to shape, accurate in size, square, and free from distortion or defects. Coated metal shall be formed in accordance with construction details and SMACNA guidelines.
- B. Fabricate cleats of same material as sheet, minimum 1.25 inches wide, interlockable with sheet.
- C. Form pieces in longest possible lengths.
- D. Hem exposed edges on underside ½ inch; miter and seam corners.
- E. Form material with standing seams.
- F. Pre-tin edges of sheets to be soldered. Solder shop formed metal joints. After soldering, remove flux. Wipe and wash solder joints clean. Weather seal joints.
- G. Fabricate corners from one piece with minimum 18 inch long legs; seam solder for rigidity, seal with sealant.
- H. Fabricate vertical faces with bottom edge formed outward 1/4 inch and hemmed to form drip.
- I. Fabricate flashings to allow toe to extend minimum 4 inches over roofing. Return and brake edges. Coated metal base flashings must be formed with a 1" cant.
- J. Form sheet metal pans (pitch pockets) 2 inches wider than item penetrating roof with 3 inch upstand, and 4 inch flanges.

2.4 FINISH

- A. Back paint concealed metal surfaces with protective backing paint compatible with TPO membrane to a minimum dry film thickness of 15 mil.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Verify roof openings, curbs, pipes, sleeves, ducts, or vents through roof are solidly set, reglets in place, and nailing strips located.
- B. Verify roofing termination and base flashings are in place, sealed, and secure.

3.2 PREPARATION

- A. Install starter and edge strips, and cleats before starting installation.
- B. Install surface mounted reglets true to lines and levels. Seal top of reglets with sealant.

3.3 INSTALLATION

- A. Conform to the drawing details of the SMACNA manual.
- B. Insert wall flashings into exposed wall surfaces into reglets to form tight fit. Secure in place with lead wedges. Pack remaining spaces with lead wool. Seal flashings into reglets with sealant.

- C. Apply plastic cement compound between metal flashings and felt flashings where applicable.
- D. Fit flashings tight in place. Make corners square, surfaces true and straight in planes, and lines accurate to profiles.
- E. Seal joints watertight for aluminum and prefinished galvanized metal.
- F. For copper, galvanized steel, and stainless steel solder metal joints for full metal surface contact. After soldering, wash metal clean with neutralizing solution and rinse with water.
- G. Not used.
- H. Seal metal joints watertight.
- I. Sheet metal flashing sections used for counterflashings and copings shall be butted together with a 1/4" gap to allow for expansion and contraction. Strip to both sides of the joint, with approximately 1" on either side of the joint left unwelded to allow for expansion and contraction. 2" wide aluminum tape can be installed over the joint as a bond-breaker to prevent welding in this area.
- J. Sheet metal used for counterflashings and copings shall be overlapped or provided with separate metal pieces to create a continuous flange condition, and pop-riveted securely.
- K. Sheet metal flashings are nailed to treated wood nailers or otherwise mechanically attached to the roof deck, or to the wall or curb substrate, in accordance with construction detail requirements.

END OF SECTION

SECTION 07 92 00
SEALANTS AND CAULKING

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Substrata surface preparation.
- B. Sealant and Caulking backing.
- C. Sealant and Caulking for general construction.

1.2 RELATED SECTIONS

- A. Related Sections include the following:
 - 1. Section 07 55 00 "Three Ply Modified Bitumen Membrane Roofing".
 - 2. Section 07 62 00 "Sheet Metal Flashing and Trim".

1.3 SUBMITTALS

- A. Submit under provisions of Section 01 33 23.
- B. Manufacturers literature describing materials and application recommendations including requirements for joint preparation and primers.
- C. Samples:
 - 1. Submit material and color samples.

1.4 WARRANTY

- A. Warranty period for this work is for two years for cracking, spalling, leaching, delamination, disintegration, and durability by the manufacturer and applicator for material and workmanship.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Tremco Incorporated, Beachwood, OH.
- B. Pecora Corporation, Harleysville, PA.
- C. Sonneborn Building Products, Chem Res Inc., Minneapolis, MN.
- D. Firestone, Carmel, IN.

2.2 MATERIALS

- A. Exterior and interior joints subject to movement gun-grade polyurethane sealant shall be one of the following types:
 - 1. Tremco "Vulkem 921".
 - 2. Pecora "Dynatrol I-XL".
 - 3. Sonneborn "Sonolastic NP 2".
- B. Interior/Exterior self-leveling polyurethane for horizontal joints shall be one of the following types:
 - 1. Firestone "Pourable Sealant".
 - 2. Tremco "Vulkem 45".
 - 3. Pecora "NR-201 Urexpan".
 - 4. Sonneborn "Sonolastic SL1".
- C. Joint Filler: Shall be ethafoam backer rod extruded polyurethane foam as manufactured by Dow Chemical

Corporation. In joints too small to use rod type backing material, architectural release tape shall be substituted.

PART 3 - EXECUTION

3.1 INSPECTION

- A. Verify joint dimensions, physical, and environmental conditions are acceptable to receive work of this section.
- B. Beginning of installation means acceptance.

3.2 PREPARATION

- A. Clean, prepare, and size joints in accordance with manufacturers instructions. Remove any loose materials and other foreign matter which might impair adhesion of sealant.
- B. Verify that joint shaping materials and release tapes are compatible with sealant.
- C. Examine joint dimensions and size materials to achieve required width/depth ratios.
- D. Use joint filler to achieve required joint depths, to allow sealants to perform properly.
- E. Use bond breaker where required.

3.3 INSTALLATION

- A. Perform work in accordance with ASTM C804 for solvent release and C790 for latex base sealants.
- B. Install sealant in accordance with manufacturers instructions.
- C. Apply sealant within recommended temperature ranges. Consult manufacturer when sealant cannot be applied within recommended temperature ranges.
- D. Tool joints concave or as indicated.
- E. Joints: Free of air pockets, foreign embedded matter, ridges, and sags.

END OF SECTION