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DESIGN-BUILD AGREEMENT AND GENERAL CONDITIONS
between the
MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT
and
CONTRACTOR
(short-form)

(Where the Basis of Payment is a Guaranteed Maximum Price)

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Revised: 1/26/07
6/5/07
11/26/07 A/E inspections, Testing requirements, change order mark-ups, rework termination/suspension, misc. corrections, rain days/delays
12/10/07 added temporary conditions and other requirements from short form Contract Conditions
6-28-08 E-Verify requirements
8-13 Duty to defend under 3.5.1 Indemnification removed

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Article 1

Agreement

This Agreement is made this _____ day of _____ in the year _____, by and between the

1.1 OWNER (“Owner”)

Maricopa County Community College District (or MCCCDD)
2411 West 14th Street
Tempe, Arizona 85281-6942
C/O: Facilities Planning and Development
Phone: 480-731-8230
Fax: 480-731-8235

And the

1.2 DESIGN-BUILD CONTRACTOR (“Contractor”)

(Name and address)

✘

For service in connection with the following

1.3 PROJECT (“Project”)

(Name, address and brief description)

✘

Notice to the parties shall be given at the above addresses.

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**DESIGN-BUILD AGREEMENT AND GENERAL CONDITIONS BETWEEN THE
MARICOPA COUNTY COMMUNITY COLLEGE DISTRICT AND CONTRACTOR**

Article 2

GENERAL PROVISIONS

2.1 TEAM RELATIONSHIP

The Owner and the Contractor agree to proceed with the Project on the basis of trust, good faith and fair dealing, and shall take all actions reasonably necessary to perform this Agreement in an economical and timely manner, including consideration of design modifications and alternative materials or equipment that will permit the Work to be constructed within the Guaranteed Maximum Price ("GMP") and by the date of Substantial Completion, as established by Amendment No.1 to this Agreement. The Contractor agrees to procure all required architectural and/or engineering services set forth below, and to furnish construction and administration of the Work as set forth below.

2.2 RELATIONSHIP OF THE PARTIES

2.2.1 CONTRACTOR SERVICES

The Contractor shall make provision for professional architectural /engineering services for the Project in accordance with the terms and conditions of this Agreement. The Contractor's performance of services shall be as professional consultant to the Owner and to carry out the activities of Project design and construction and to provide the technical documents and supervision of the design team to achieve the Owner's Project objectives.

2.2.2 CONTRACTOR REPRESENTATION

1. The Contractor shall provide a list of all architect/engineers (i.e., professional architects, engineers, survey, geo-technical, etc.) that the Contractor intends to utilize relating to the Project prior to signing this Agreement. The list shall include such information on the qualifications of the architect/engineers as may be requested by the Owner. Whether before the Agreement is signed or after, the Owner reserves the right to review the architect/engineers proposed and the Contractor shall not retain a architect/engineer to which the Owner has a reasonable objection. The Owner shall pay the Contractor any reasonable increased costs of obtaining the services of architect/engineers to replace those rejected by the Owner.

2. The Contractor shall provide to the Owner a list of the proposed key project personnel of the Contractor and its architect/engineers to be assigned to the Project. This list shall include such information on the professional background of each of the assigned individuals as may be requested by the Owner. Such key personnel and architect/engineers shall be satisfactory to the Owner and shall not be changed except with the consent of the Owner. The Owner's approval of substituted personnel shall not be unreasonably withheld. The Owner shall pay the Contractor reasonable increased costs for obtaining the services of key project personnel to replace those rejected by the Owner, unless the Owner has reasonable cause from past performance or the proposed firm's qualifications to ask for the change.

3. Prior to establishing the GMP, the Contractor shall provide a list of all proposed sub-contractors and materials suppliers that the Contractor intends to solicit pricing from or utilize in the construction of the Project. The Owner reserves the right to review the proposed list and the Contractor shall not retain a sub-contractor or materials supplier to which the Owner has a reasonable objection.

2.3 ARCHITECT/ENGINEER

Architectural and engineering services shall be procured from licensed, independent design professionals retained by the Contractor or furnished by licensed employees of the Contractor, or as permitted by Arizona law. The person(s) or entity(ies) providing architectural and engineering services shall be referred to as the Architect/Engineer. If the Architect/Engineer is an independent design professional, the architectural and engineering services shall be procured pursuant to a separate agreement between the Contractor and the Architect/Engineer. The Architect/Engineer and other professional services providers (list all separately) for the Project are:

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FOR EACH PROFESSIONAL SERVICES FIRM, PROVIDE THE FOLLOWING:

NAME
ADDRESS
PHONE NUMBER
FACSIMILE NUMBER
NAME OF FIRM'S PRIME CONTACT
E-MAIL ADDRESS OF PRIME CONTACT
ARIZONA PROFESSIONAL TECHNICAL REGISTRATION NUMBER of LEAD/RESPONSIBLE REGISTRANT

2.4 EXTENT OF AGREEMENT

This Agreement is solely for the benefit of the parties, represents the entire and integrated agreement between the parties, and supersedes all prior negotiations, representations or agreements, either written or oral. In the event language in this document contradicts or is in conflict with any other prior agreement, written or oral, this Agreement's language takes precedence. Any subsequent agreement between the parties intended to supersede the provisions of this Agreement shall clearly set out such intention.

2.5 DEFINITIONS

2.5.1. The Contract Documents consist of:

- a. Change Orders and written amendments to this Agreement signed by both the Owner and Contractor. This Agreement, except for the existing Contract Documents set forth in item (d) below;
- b. The most current Documents approved by the Owner pursuant to Subparagraphs 3.1.4, 3.1.5 or 3.1.6;
- c. The information provided by the Owner pursuant to Clause 4.1.2;
- d. The Contract Documents in existence at the time of execution of this Agreement, which are set forth in Article 15;
- e. The Owner's design standards
- f. The Owner's Program provided pursuant to Subparagraph 4.1.1.
- g. Guaranteed Maximum Price Proposal in Exhibit G, or Amendment Number 1 to this Agreement

In case of any inconsistency, conflict or ambiguity among the Contract Documents, the Documents shall govern in the order in which they are listed above with the exception of item g, which shall govern in the event of any inconsistency with any other document.

2.5.2. The Work is the Design Phase Services procured in accordance with Paragraph 3.1 and 3.3.1, the GMP Proposal provided in accordance with Paragraph 3.2, the Construction Phase Services provided in accordance with Paragraph 3.3.2. Additional Services that may be provided in accordance with Paragraph 3.8, and other services which are necessary to complete the Project in accordance with and reasonably inferable from the Contract Documents.

2.5.3. The term Day shall mean calendar day.

2.5.4 A Subcontractor is a person or entity that has an agreement with the Contractor to perform any portion of the Work. The term Subcontractor does not include the Architect/Engineer, a vendor or any separate contractor employed by the Owner.

2.5.5. A Sub-subcontractor is a person or entity that has an agreement with a Subcontractor to perform any portion of the Subcontractor's work.

2.5.6. Substantial Completion of the Work, or of a designated portion, occurs on the date when construction is sufficiently complete in accordance with the Contract Documents and meets the requirements of Paragraph 6.2 so that the Owner can occupy or utilize the Project, or a designated portion, for the use for which it is intended. This date shall be confirmed by a certificate of Substantial Completion signed by the Owner and the Contractor. The certificate shall state the respective responsibilities of the Owner and the Contractor for security, maintenance, heat utilities, damage to the Work, and insurance. The certificate shall also list the items to be completed or corrected, and establish the time for their completion and correction.

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2.5.7. The Owner's Education Specification and Project Initiation documents ("Program"), along with the Owner's Design Guidelines and Standards, are an initial description of the Owner's objectives, including budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements.

2.5.8. The Contractor as used in this agreement shall mean Design Builder.

2.6 The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss. If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a two day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may without prejudice to other remedies the Owner may have, correct such deficiencies. If the Contractor performs Work contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs including all penalties and fines. Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving notice. Notices sent to the District shall be received by the Facilities Department at the District Office, in care of the project manager for the contract. Failure of the Owner to act or provide written notice to the Contractor regarding the Contractor's failure to comply with any specific requirement of the Contract or Contract Documents shall not constitute Owner's waiver of the requirement. The Owner's waiver of any requirement will occur only in writing which expressly states that it is a waiver of the specific requirement described in that writing.

ARTICLE 3

CONTRACTOR'S RESPONSIBILITIES

The Contractor shall be responsible for procuring the design and for the construction of the Work consistent with the Owner's Program, and as such Program may be modified by the Owner during the course of the Work. The Contractor shall exercise reasonable skill and judgment in the performance of its services, but does not warrant or guarantee schedules and estimates other than those that are part of the GMP proposal.

3.1 DESIGN PHASE SERVICES

3.1.1 PRELIMINARY EVALUATION

If the design and GMP are not part of the initial Contractor selection, the Contractor shall utilize its best efforts to provide a preliminary evaluation of the Project's feasibility based on the Owner's Program and other relevant information within ~~fourteen~~ <thirty> days of both parties' signing of this Agreement.

3.1.2 PRELIMINARY SCHEDULE

The Contractor shall prepare a preliminary schedule of the Work for the Owner's written approval. The schedule shall show the activities of the Owner, Architect/Engineer and the Contractor necessary to meet the Owner's completion requirements. The schedule shall be updated periodically with the level of detail for each schedule update reflecting the information then available. If an update indicates that a previously approved schedule will not be met, the Contractor shall recommend corrective action to the Owner in writing. The work will be scheduled, planned and reported using the Critical Path Method (CPM).

3.1.3 PRELIMINARY ESTIMATE

Upon completion of the Preliminary Evaluation, the Contractor shall prepare a preliminary estimate for the Owner's written approval utilizing area, volume or similar conceptual estimating techniques. The estimate shall be updated periodically but at least at the completion of each phase of the design until a GMP is issued, with the level of detail

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for each estimate update reflecting the information then available. If the preliminary estimate or any update exceeds the Owner's budget, the Contractor shall make written recommendation of corrective action to the Owner.

3.1.4 SCHEMATIC DESIGN DOCUMENTS

3.1.4.1 The Contractor shall submit for the Owner's review and written approval Schematic Design Documents, based on the Owner's Program and other relevant information. Schematic Design Documents shall include drawings, outline specifications and other conceptual documents illustrating the Project's basic elements, scale and their relationship to the site. Six sets of these documents shall be furnished to the Owner. The Contractor shall update the preliminary schedule and estimate based on the Schematic Design Documents.

3.1.4.2 The Contractor shall review the Owner's Education Specification and any other additional program needs provided by the Owner to assure that all items and all detail have been included in the design. Any deletions or modifications from the Education Specification or program needs shall be brought to the Owner's attention in writing for Owner approval, or be restored to the Work. The Owner will provide review and written comments to the Contractor on the Schematic Design Documents. All comments shall either be implemented into the Design Development documents or noted in writing by the Contractor back to the Owner that they will not be included and the reason for their exclusion.

3.1.5 DESIGN DEVELOPMENT DOCUMENTS

3.1.5.1 The Contractor shall submit for the Owner's review and approval Design Development Documents based on the approved Schematic Design Documents. The Design Development Documents shall further define the Project including drawings, equipment or systems cut-sheets, finish/color samples and outline specifications fixing and describing the Project size and character, and other appropriate elements incorporating the structural, architectural, mechanical and electrical systems. Six sets of these documents shall be furnished to the Owner. The Contractor shall update the schedule and estimate based on the Design Development Documents. In projects with an accelerated schedule and with the Owner's written consent, the Schematic Design and Design Development Phases may be combined into a single Phase, but requirements for the submittal package and approval will not be reduced if a single phase is used.

3.1.5.2 The Owner will provide a review and written comments back to the Contractor on the Design Development Documents. All comments shall either be implemented into the Construction Documents or noted in writing by the Contractor back to the Owner that they will not be included and the reason for their exclusion. Additional items that have been deleted or reduced in scope/size from the Schematic Design Documents shall be brought to the specific attention of the Owner in writing and receive the Owner's approval for deletion or reduction.

3.1.6 CONSTRUCTION DOCUMENTS

3.1.6.1 The Contractor shall submit Construction Documents based on the approved Design Development Documents for the Owner's review and written approval. The Construction Documents shall set forth in detail the requirements for construction of the Work, and shall consist of drawings and specifications, along with additional or revised equipment/systems cut sheets, finish/color samples and include the Owner supplied General Conditions and general requirements, based upon codes, laws or regulations enacted at the time of their preparation. Construction shall be in accordance with these approved Construction Documents. Six sets of these documents shall be furnished to the Owner prior to commencement of the applicable portions of the construction. If a GMP has not been established prior to the completion of the Construction Documents, the Contractor shall update the schedule and estimate based on the Construction Documents.

3.1.6.2 The Owner will provide a review and written comments back to the Contractor on the Construction Documents. All comments shall either be implemented into the construction or noted in writing by the Contractor back to the Owner that they will not be included and the reason for their exclusion. Additional items that have been deleted or reduced in scope/size from the Schematic Design or Design Development Documents shall be brought to the specific attention of the Owner in writing and receive the Owner's approval for deletion or reduction. Any reductions or deletion of previously approved Owner requests which have been made without the Owner's specific written consent shall be restored to the Work at no change in GMP and no additional cost to the Owner. The Owner

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has a strong interest in receiving the entire Work which has been presented to him and previously approved; deletions or reductions without the Owner's knowledge or consent shall not occur.

3.1.7 OWNERSHIP OF DOCUMENTS

The Owner acknowledges the Contractor's construction documents as instruments of professional service. ~~< which may contain structural information that is proprietary to the Contractor. All such proprietary information shall be labeled as such by the Contractor and the Owner shall not divulge such information to third parties without the written consent of the Contractor. Such proprietary structural information is not and shall not become the property of the Owner. The Contractor shall be authorized to redact or omit any proprietary information from electronic information transfers. Otherwise.>~~ ~~<Nevertheless,~~ the plans and specifications prepared under this Agreement shall become property of the Owner upon completion of the Work and payment in full of all monies due to the Contractor. The Contractor shall not use the drawings and specifications, therefore, for any purpose not related to the Project without Owner's consent. The Owner shall not reuse or make any modification to the plans and specifications without the prior written authorization of the Contractor. The Owner agrees to the fullest extent permitted by law, to indemnify and hold the Contractor harmless from any claim, liability or cost (including reasonable attorney's fees and defense cost) arising or allegedly arising out of any unauthorized reuse ~~<including disclosure of structural proprietary information>~~ or modification of the construction documents by the Owner or any person or entity that acquires or obtains the plans and specifications from the or through the Owner without the written authorization of the Contractor.

3.1.8 PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND

Bonds covering the faithful performance of the Contract and the payment of all obligations arising hereunder, each in the amount of one hundred percent (100%) of the GMP, shall be submitted to the Owner together with the executed Owner Design-Build Agreement, within ten (10) days after issuance of Letter of Intent to Award Contract. The cost of the bonds shall be included in the Cost of the Work. The Contractor shall deliver the required bonds to the Owner as a pre-condition to the Owner issuing the Notice to Proceed. The Attorney-in-Fact who executes the bonds on behalf of surety shall affix thereto a certified and current copy of his Power of Attorney. The format provided by the Owner must be used as the format for the Performance and Payment Bonds. Subcontractors are not required to be bonded and no subcontract bond shall be part of this Agreement without the prior approval of the Owner. If the Contractor still wishes to bond subcontractors, it may do so at its own cost. That cost shall not be passed along in any form to the Owner as part of the GMP.

3.2 GUARANTEED MAXIMUM PRICE (GMP) PROPOSAL

3.2.1. When schematic design drawings and specifications are approved by the Owner, or at such other time as mutually agreed to by the Owner and Contractor, the Contractor shall provide the Owner with a proposed GMP. The GMP is subject to modification as provided in Article 9.

3.2.2. If a GMP is not established, all references in this Agreement to the GMP shall not be applicable, and the parties shall proceed on the basis of reimbursement as provided in Article 7 and 8. In the absence of a GMP, however, the parties may establish a date of Substantial Completion. If a GMP is not established and no further work is to be provided, the Contractor shall be reimbursed per Section 3.2.4.3 for its reasonable and proper costs of Work to date.

3.2.3. The estimated Cost of the Work as set forth in Article 8 may include the Contractor's contingency, a sum established by the Contractor for use at the Contractor's discretion to cover costs that are properly reimbursable as a Cost of the Work but are not the basis for a Change Order. This contingency shall be shown within the overall GMP proposal or detail. Its use shall be only to benefit the Work and not be for the sole benefit or convenience of the Contractor. A final accounting of all uses of this and any other contingencies or allowances shall be provided to the Owner prior to final payment, with adjustment or credit made to the Owner for unused balances.

3.2.4. Those portions of the Work that the Contractor does not customarily perform with his own personnel shall be performed under subcontracts or by other appropriate agreements with the Contractor. The Contractor shall pre-qualify and obtain bids from Subcontractors and from suppliers of materials or equipment fabricated to a special design for the Work from the list previously reviewed per Subparagraph 5.4 and, after analyzing such bids, shall

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evaluate such bids with the Owner in an open book process, showing the Owner the results of all construction sub-contractor and supplier proposals. The Contractor shall make a best effort to obtain at least three qualified competitive bids for each construction subcontract and supplier area within the Work except where these sub-contractors or suppliers are selected early prior to fully competitive pricing being possible. The Contractor shall then determine which bids will be accepted, subject to the reasonable objection of the Owner. The Owner may designate specific persons or entities from whom the Contractor will solicit bids; however, if the Guaranteed Maximum Price has been established, the Owner may not prohibit the Contractor from obtaining bids from other qualified bidders. The Contractor shall not be required to contract with anyone to whom he or the Owner has reasonable objection. For any portion of the Work that the Contractor desires or customarily performs with his own personnel, the Contractor shall prepare his own bid and procure at least two (2) other sealed competitive bids from qualified bidders. The Owner will participate in the opening and evaluation of such bids and the Contractor's bid. The award of the portion of the Work subject thereto shall be made to the Contractor or other qualified bidder submitting the lowest responsible, responsive bid.

3.2.4. BASIS OF GUARANTEED MAXIMUM PRICE

The Contractor shall include with the GMP proposal a written statement of its basis, which shall include:

- a. A list of the drawings and specifications, including all addenda, which were used in preparation of the GMP proposal;
- b. A list of allowances along with a statement of their basis;
- c. A list of the clarifications and assumptions made by the Contractor in the preparation of the GMP proposal to supplement the information contained in the drawings and specifications;
- d. A list of unit prices along with a statement of their basis;
- e. A list of all specific exclusions made by the Contractor in developing the GMP. All items and work that are necessary for the design, construction and function of the facility (with the exception of Owner supplied FF&E and systems) that are not specifically excluded are considered to be contained within the GMP. ***No work contained in the Contract Documents and Addenda shall be listed as an exclusion without specific separate written notification to the Owner and specific written agreement by the Owner in advance of submitting the GMP.***
- f. Schedule of applicable alternate prices;
- g. Statement of Additional Services included, if any;
- h. A spreadsheet showing all amounts, types and descriptions of the Professional Services required for the Work, relating to Professional Services section of the GMP proposal;
- i. A list of estimated reimbursable costs not associated with the Professional Services, along with a statement of their basis; and
- j. A preliminary Schedule of Values showing proposed budgets or actual sub-contract amounts for all trades and proposed sub-contracts or direct materials purchases for the Work. Provide separate cost lines for each of the following items: general conditions costs, professional services, bonds, insurance, fee, each Owner or Contractor allowances, and Contractor construction phase contingency.
- k. The Project Schedule for the Work, including the Date of Substantial Completion upon which the proposed GMP is based.

3.2.4.1. The Contractor shall meet with the Owner to review the GMP proposal. In the event that the Owner discovers any inconsistencies or inaccuracies in the information presented, the Owner will provide prompt written notice to the Contractor, who shall make appropriate adjustments to the GMP, its basis or both.

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3.2.4.2. Unless the Owner accepts the GMP proposal in writing on or before the date specified in the proposal for such acceptance and so notifies the Contractor, the GMP proposal shall not be effective without written acceptance by the Contractor.

3.2.4.3. Prior to the Owner's acceptance of the Contractor's GMP proposal, the Contractor shall not incur any cost to be reimbursed as part of the Cost of the Work, except as provided in this Agreement or as the Owner may specifically authorize in writing.

3.2.4.4. Upon acceptance by the Owner of the GMP proposal, the GMP and its basis shall be set forth in Amendment 1 or subsequent amendments. The GMP and the date of Substantial Completion shall be subject to modification by changes in the Work as provided in Articles 6 and 9. The time limit for acceptance of the GMP proposal must be at least thirty (30) days to allow proper District review and Governing Board award.

3.2.4.5. The GMP shall include in the Cost of the Work and all permits, bonds, insurance, fees, licenses and taxes applicable at the time the GMP is established.

3.3 DESIGN AND CONSTRUCTION SERVICES

3.3.1 Design Services

The Contractor shall provide all interim design submissions and deliverables as proscribed in Exhibit C **Design Submittal Requirements and Minimum Standards**, provided by the Owner, and as shown on the Project Schedule.

1. Within seven Days after a scheduled submission, the Contractor and Owner shall meet and confer about the submissions, with Contractor identifying during such meetings, among other things, the evolution of the design and any significant changes or deviations from the Contract Documents, Owner Education Specifications or program information, or previously submitted design submissions.

2. The Contractor shall submit and distribute hard copy sets of plans and specifications and one set of plans in AutoCAD format compatible with Owner CAD/D technology per Paragraphs 3.1.4, 3.1.5 and 3.1.6. As applicable, materials samples boards, cut sheets of all equipment, fixtures, etc., also shall be submitted to the Owner.

3. Minutes of the meetings will be maintained by Contractor and provided within five Days following the design review meeting to all attendees for review.

4. Owner shall review and approve the interim design submissions in a reasonable time that is consistent with the turnaround times set forth in Design-Builder's Project Schedule.

5. Contractor shall not cause the design to proceed until Owner approves the interim design submissions as prescribed in this section. If the Contractor proceeds without Owner approval, the cost of any resultant redesign is not a reimbursable cost.

6. The Project design must meet all applicable (i) building and safety codes (ii) Maricopa County Government (MAG) Uniform Standard Technical Specifications and Uniform Standard Details and Drawings, latest revision; (iii) all Owner building standards; and (iv) requirements listed in Exhibit C; ~~(v) meeting the design intent of the zoning and development ordinances, including traffic studies and other municipal <Tribal Government- for SCC work requirements related to the portions of Work which the City <Salt River Pima-Maricopa Indian Community has jurisdiction and (vi) shall include all special provisions provided by the Owner. Where the requirements of similar codes are in conflict, the most stringent code requirement for the particular situation shall govern.~~

7. The Project design criteria and specifications shall be in accordance with the Design Standards and Guidelines provided by the Owner. Variances from the standards and guidelines must be identified in writing by the Contractor and approved by the Owner in writing. The Contractor shall identify conflicts between the design standards and guidelines and the requirements in paragraph 7 above or legal requirements and shall obtain

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concurrence with resolution of the conflict. The Design Standard and Guidelines or approval of variances or resolution of conflicts shall not transfer any design liability to the Owner.

8. The Contractor shall not specify any construction materials known to be hazardous or potentially hazardous, including asbestos, PCB's, lead or any derivative thereof unless specifically approved in writing by the Owner.

9. The Contractor shall coordinate with private, public and Owner utilities (i.e., Information Technology Department, college facilities and maintenance departments) regarding standard utility issues and incorporate pertinent information in the plans.

10. The Contractor shall be responsible for scheduling, submitting, obtaining approval and retrieving of all required Construction Documents to the various required reviewing agencies.

11. Contractor shall be responsible for scheduling, preparing necessary exhibits and making presentation to public and internal review committees.

12. Contractor shall submit Construction Documents to the Owner setting forth in detail drawings and specifications describing the requirements for construction. The Construction Documents shall be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting.

13. The Contractor shall provide the drawings in AutoCAD format compatible with Owner's CAD/D technology using Owner layering standards. The drawing format will be a 24" x 36" sheet size unless otherwise authorized in writing by the Owner.

14. Prior to commencement of construction, Contractor shall submit to the Owner the following, complying with the requirements of Exhibit D, Minimum Submittal Requirements Prior to Notice to Proceed with Construction:

- One set of approved Construction Drawings in AutoCAD format on electronic media (CD-ROM);
- <Six print sets of approved Construction Drawings and <three half-size sets; and
- <Three sets of specifications
- <Two complete color boards showing all proposed finishes, colors and materials
- <Three sets of final cut sheets of all equipment, fixtures, etc.

15. To the extent not prohibited by legal requirements and subject to reasonable reimbursement from the Owner in the event the GMP proposal is not accepted by the Owner, Contractor may arrange for interim design submissions and Construction Documents for a portion of the construction to permit partial/phased or accelerated construction to proceed prior to completion of the Construction Documents for the entire construction. When a phased construction is proposed, the appropriate portions of Exhibit D requirements must be completed prior to that individual phase or portion of the Work commencing.

3.3.2 CONSTRUCTION SERVICES

1. Construction will commence upon the issuance by the Owner of a written Notice to Proceed with construction. If construction commences prior to execution of Amendment No.1, the Owner's written notice to proceed shall list the documents that are applicable to the part of the Work that the Owner has authorized and the amount the Owner shall pay the Contractor for such work in the event Amendment No. 1 is not executed by the parties.

2. In order to complete the Work, the Contactor shall provide all necessary construction supervision, inspection, construction equipment, labor, materials, tools, and subcontracted items.

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3. The Contractor shall give all notices and comply with all laws and ordinances legally enacted at the date of execution of the Agreement, which govern the proper performance of the Work. ~~For Work performed at the Scottsdale Community College, the Salt River Pima-Maricopa Indian Community has separate design review, tax and business license, employment and materials preference requirements. A copy of those requirements will be furnished with this Agreement.~~ ~~ATTACH A COPY OF SPEC SECTION 01015 Salt River Pima Requirements for Work at SCC.doc~~

4. Immediately after Award of Contract, the Contractor shall prepare and submit a Schedule of Work for the Owner's review. This schedule shall indicate the dates for the start and completion of the various stages of the construction including the dates when information and approvals are required from the Owner and shall provide for expeditious and practicable execution of the work. It shall be revised as required by the conditions of the Work, but no less than monthly. The Construction Schedule shall consist of a critical path format. The time-scale shall indicate all required Milestone and Completion Dates for each activity up to and including the date of Substantial Completion. Each work line shall indicate the start and finish dates of each activity, well as the total time period of performance for each activity. All work activities, including those within a single activity, shall be broken down into distinctly described activities of no greater than two weeks.

5. The Contractor shall secure and pay for the plan review and building permits necessary for the construction of the Project.

6. The Contractor shall make provision for all required local site surveying, staking and utility location services associated with this Work. These services shall be included in the GMP.

7. The Contractor shall take necessary precautions for the safety of its employees on the Project, and shall comply with all applicable provisions of federal, state and municipal safety laws to prevent accidents or injury to persons on, about or adjacent to the Project site. The Contractor, directly or through its Subcontractors, shall erect and properly maintain at all times, as required by the conditions and progress of the Work, necessary safeguards for the protection of workers and the public. The Contractor, however, shall not be responsible for the elimination or abatement of safety hazards created or otherwise resulting from work at the Project site carried on by the Owner or their employees, agents, separate contractors or tenants. The Owner agrees to cause their employees, agents separate contractors and tenants to abide by and fully adhere to all applicable provisions of federal, state and municipal safety laws and regulations. The above provision shall not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with all applicable provisions of relevant laws.

8. The Contractor shall keep such full and detailed accounts as may be necessary for proper financial management under this Agreement. The Owner shall be afforded access to all the Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to this Agreement. The Contractor shall preserve all such records for a period of five years after the final payment or longer where required by law.

9. The Contractor shall provide periodic written reports, but not less than monthly, to the Owner on the progress of the Work as agreed to by the Owner and the Contractor.

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10. The architect and engineers of record shall inspect the Work at appropriate intervals to assure that it is being constructed and installed per their design and professionally sealed construction documents. At a minimum, these inspections shall occur:

1. Before concrete floor slab placement
2. Before backfill of underground utilities
3. At completion of rough-in of mechanical, plumbing or electrical systems in walls or above ceilings where it will be concealed by other construction
4. At the completion of the Work, producing a punch list
5. Final review of the punch list to assure completion of listed items.
6. Special inspections for structural or electrical work required by building codes or ordinances.

The responsible design professional shall transmit their professionally sealed report directly to the Owner within three working days of the inspection.

11. The Contractor shall prepare, review and approve all shop drawings, product data and samples necessary for the Work, or as requested by the Owner, 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. 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 and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. Only those products that were originally specified, or receiving the Owner's prior approval, shall be included in the Work. The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Owner's review of shop drawings, product data or samples.

12. To assure that site mixed or site modified products are in conformance with codes and specifications, the **<Contractor shall make arrangements> <Owner will provide>** and pay for materials testing for the following as appropriate for the Work proposed:

Concrete, mortar and grout:

- All poured in place concrete, whether structural or site work
- Masonry Block, ungrouted and grouted prisms, mortar strength
- Review of mix designs as needed

Asphalt

- Marshall density
- Bitumen extraction & aggregate
- Specific gravity
- Stability and flow
- Gradation
- Core density and thickness of installed product
- Review of mix designs as needed

Soil and Aggregate Backfill and Compaction

- Observation and testing of mass earthwork as required by the geo-technical report
- Observation or testing of the following for placement, pre-compaction conditions, placement and compaction of backfill, trench backfill, sub-grade or ABC, including the following as appropriate:
 - Proctor density
 - Swell potential
 - Plasticity Index
 - Sieve analysis
 - pH and resistivity
 - compaction

Welding- inspecting and verifying depth, thickness and quality of welds where required by the building code, engineer or authorities having jurisdiction

High strength bolts- testing for and confirming proper torque for high strength bolts used in structural steel erection

Sprayed On Fire proofing- confirmation of proper application, thickness and density

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Roofing- testing for proper asphalt coverage, thickness or weight of in-place sections, property density of foam, etc.

The selected testing firm shall be experienced in the work to be tested and be properly certified to provide the testing. The selected firm shall be approved by the Owner prior to the beginning of any testing on the Work. The testing firm shall transmit copies of their reports directly to the Owner within three working days of the inspection.

13. The Contractor shall develop a system of cost reporting for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes in the Work. The reports shall be presented to the Owner at mutually agreeable intervals, but not less than monthly.

14. At all times, the Contractor shall maintain the site of the Work free from debris and waste materials resulting from the Work. At the completion of the Work, the Contractor shall remove from the premises all construction equipment, tools, surplus materials, waste materials and debris.

15. At all times, the Contractor shall comply with Federal, State or local requirements for dust control, erosion, sediment control and storm water run-off control (including SWPPP-Storm Water Pollution Prevention Plans and termination of coverage notification); control and proper disposal of debris and trash; and other similar construction requirements. This includes all necessary permits, notices, plans and termination of coverage, along with enforcement of all of these requirements with sub-contractors and suppliers.

15. The Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents unless the Contractor has specifically informed the Owner in writing of such deviation at the time of submittal and the Owner has given written approval to the specific deviation.

16. Copies of all test results, special reports, special inspections, test and balance reports, materials testing results, etc. shall be provided directly to the Owner by the issuing agency or architect/engineer.

17. Temporary Facilities and Controls. The Contractor shall furnish, erect and maintain temporary facilities and controls and perform temporary work required in the performance of this Agreement. All utility and services described here and used by the Owner shall remain in service until Final Completion is obtained by the Contractor. Items indicate as "If Needed" shall be furnished as determined by the Contractor. The Owner is not obligated to provide these or similar facilities if the Contractor declines to provide them. On existing college sites, the Owner will identify construction staging and storage areas allocated to the Contractor for the Work.

.1 If needed, provide all temporary storage enclosures and storage enclosures required for his operations. Limit storage of materials to areas indicated or agreed to by the Owner.

.2 Furnish and install a Contractor's field office building adequate in size for all the Contractor's offices and files.

.3 Provide adequate toilet and sanitary facilities, as required by applicable ordinance, for the use of all workmen employed on the Work. Existing toilets shall not be used.

.4 If needed, telephones may be furnished by the Contractor for the use of the Contractor, Subcontractors, and trades employed on the work. Toll and long distance calls shall be made only under arrangements with the Contractor who shall be responsible for the collection and payment of all charges in connection therewith.

.5 Water required in the performance of the Contract shall be provided and paid for by the **<Owner <Contractor**. The Contractor shall provide and pay for municipal meters where required, temporary taps, valves or lines necessary for the work.

.6 The **<Owner <Contractor** will provide temporary electrical power and lighting as required in the performance of the Work. The Contractor shall provide and pay for temporary meters where required by the utility, temporary panels, circuit protection, wiring, devices and fixtures necessary for the work. Provide adequate temporary lighting and convenience outlets as may be necessary for proper performance and inspection of the work. If

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operations are carried on during hours of darkness, adequate floodlights, clusters and spot illumination shall be furnished and maintained during all hours that natural illumination is insufficient for the work being performed.

.7 If needed for proper installation or protection of any portion of the Work, the Contractor shall provide, operate and maintain temporary heating and cooling units. If the building HVAC system is used for temporary heating or cooling, a full set of HVAC filters shall be installed before any use of the system and another full set of filters provided at the completion of the Work, prior to test and balance of the HVAC system.

.8 Supply adequate cool, pure drinking water with individual drinking cups for the use of workmen on the Project. The quality of the drinking water shall meet the standards for public water supplies specified in the County Health Department Sanitary Code.

.9 Provide and maintain all site security and temporary fences. Where needed, provide and maintain lights, shoring, scaffolds, tarpaulins, barricades, canopies, warning signs and safety barriers, steps, bridges, platforms, and other protective structures or devices necessary for the security of the Work, safety of workmen, equipment, the public and property as required by Federal, State or municipal laws and regulations, and local ordinances. Temporary fencing shall be a minimum six foot (6') high chain link fence and access gates around the construction site. Provide and maintain provisions for closing and locking the Project at such time as possible to do so. All open excavations outside of the fenced construction areas shall be completely protected by steel plates, lighted barriers, 48" high safety/snow type fencing and safety warning tape or other measures as appropriate.

.10 Protect existing structures, paving/paving surface, landscape, and underground utilities. Prior to Substantial Completion, return any damaged conditions to the original conditions.

.11 Provide adequate fire extinguishers during construction of the type and sizes recommended by the American Insurance Association to control fires resulting from the particular work being performed. Instruct employees in their use. Place extinguishers in the immediate vicinity of the work being performed, ready for instant use. Where required by local municipalities, install new fire hydrants prior to delivery of any flammable materials to the work site. Maintain fire hydrants outside of temporary fence lines.

.12 Protect the interior of the building by closing all openings with suitable materials when weather or job conditions require. Work in place that is subject to injury because of operations being carried on adjacent thereto shall be covered, boarded up or substantially enclosed with adequate protection. All forms of protection shall be constructed in a manner such that, upon completion, the entire work will be delivered to the Owner in proper, whole and unblemished condition.

<ADD WHEN WORKING ON EXISTING CAMPUSES

.13 The Contractor shall have access to the work area seven (7) days per week from 5:00 A.M. to 10:00 P.M. Access shall be limited to the work, staging, delivery, and parking areas which have been approved by Owner and indicated on the drawings. Whenever the Contractor's activity affects college/public vehicular or pedestrian traffic, the Contractor shall install and maintain any and all traffic barriers, signals, separators, etc., necessary for the safety of the public. Maintain access for fire protection of buildings at all times. Do not block or restrict access to fire hydrants.

.14 The Owner's on-going operations and use of adjacent areas outside of the project area shall not be disturbed by noise, vibration, odor, material staging, etc. All movement of new materials or waste/demolition materials through non-project areas shall occur prior to 7:30 A.M. or after 2:30 P.M. Dust, dirt or debris in areas outside of the project area shall be cleaned and vacuumed at the end of each work day. Contractor shall exercise maximum noise control efforts to minimize the nuisance of construction noise. Dependent on Owner operating requirement use of noisy equipment may be restricted

.15 When working within or adjacent to existing facilities, or when tying into existing college utilities, the Contractor shall use and comply with College red tag permit systems, tag out procedures and Hot Work Permit systems for cutting, welding, soldering, grinding, etc. The Contractor will notify the College Facilities Manager in writing of any desired changes to, or interruption of, existing utilities at least five (5) days prior to the time changes are to be made. No existing main switches or valves should be operated by the contractor. The College will provide personnel to operate, shut down or start up existing systems. Shut down of utilities or

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equipment that will effect more than the project area needs to be planned and scheduled at least 14 days in advance.

<ADD WHEN WORKING ADJACENT TO OR ATTACHING TO AN EXISTING BUILDING

<16 When working adjacent to non-project areas, erect and maintain temporary dust barriers. Barriers shall be sealed to walls and ceilings to prevent passage of dust. Ceilings tiles shall be in place or other provisions made to prevent the spread of dust into the building air conditioning system when demolition, drywall finishing or other dust producing operations are taking place. If dust has spread into adjacent non-project areas, those areas shall be thoroughly cleaned by a professional cleaning service as part of the Work. Contractor shall take reasonable precautions to minimize debris that could be carried by wind on the site or to adjoining property.

3.4 HAZARDOUS MATERIAL

3.4.1. A Hazardous Material is any substance or material identified now or in the future as hazardous under any federal, state or local law or regulation, or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal and /or clean-up. The Contractor shall not be obligated to commence or continue Work until any known or suspected Hazardous Material discovered at the Project site has been removed, rendered or determined to be harmless by the Owner as certified by an independent testing laboratory and approved by the appropriate government agency

3.4.2. If after the commencement of the Work, known or suspected Hazardous Material is discovered at the Project site, the Contractor shall be entitled to immediately stop Work in the affected area, and the Contractor shall report the condition to the Owner and, if required, the government agency with jurisdiction.

3.4.3. The Contractor shall not be required to perform any Work relating to or in the area of known or suspected Hazardous Material without written mutual agreement.

3.4.4. The Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether it is a Hazardous Material requiring corrective measures and/or remedial action. Such measures shall be the sole responsibility of the Owner, and shall be performed in a manner minimizing any adverse effect upon the Work of the Contractor. The Contractor shall resume Work in the area affected by any Hazardous Material only upon written agreement between the parties after the Hazardous Material has been removed or rendered harmless.

3.4.5. If the Contractor incurs additional costs and/or is delayed due to the presence of known or suspected Hazardous Material, the Contractor shall be entitled to an equitable adjustment in the GMP and/or the date of Substantial Completion.

3.5 INDEMNIFICATION

3.5.1. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner and its agents and employees (collectively "Indemnitees") of any of them from and against claims, demands, payments, suits and judgments, damages, losses and expenses, including but not limited to attorneys' fees, court costs and the cost of appellate proceedings, arising out of or resulting from, either directly or indirectly, the performance of the Work or the conditions of the Site, caused by a negligent act or omission of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party or person described in this paragraph. The Contractor, at its own expense and risk, shall defend all legal proceedings that may be brought against the Indemnitees on any such claim, damage, loss or expense, and satisfy any resulting judgment that may be rendered against any of them.

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

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3.5.3. The terms of this Paragraph shall survive the completion of the Work under this Agreement and/or any termination of this Agreement.

3.6 ROYALTIES, PATENTS AND COPYRIGHTS

The Contractor shall pay all royalties and license fees that may be due on the inclusion of any patented or copyrighted materials, methods or systems selected by the Contractor and incorporated in the Work. The Contractor shall defend, indemnify and hold the Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection.

3.7 WARRANTIES AND COMPLETION

3.7.1. The Contractor warrants that all materials and equipment furnished under the Construction Phase of this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship, materials and hazardous materials. Warranties shall commence on the date of Substantial Completion of the Work or of a designated portion. Buildings shall be weathertight, watertight, and leak-proof at every point in every area, except where leaks can be attributed to damage to the building by external forces beyond the Contractor's control. The Contractor also shall repair or replace any damaged material, finishes or fixtures damaged as a result of this water penetration. The Work shall be mold free at the time of Final Completion. The Contractor agrees to correct all construction performed under this Agreement which proves to be defective in workmanship and materials within a period of two years from the date of Substantial Completion or for such longer periods of time as may be set forth with respect to specific warranties required by the Contract Documents or offered as a manufacturer's standard warranty.

3.7.2. The Contractor agrees to respond to the warranty request within forty-eight (48) hours, and then commence and diligently pursue remedy or repair within five work days. Warranty requests which adversely effect the operation of critical building systems or life safety issues shall be responded to immediately and corrected as quickly as possible. Neither final payment nor any other provision in this Contract shall relieve the Contractor of the sole responsibility to such corrective work. If the Contractor fails to commence the corrective work in a timely manner, the Owner, at his option, may perform the corrective work or have the same performed at the expense of the Contractor, with payment due to the Owner by the Contractor, or his surety, upon receipt for the expenses. Corrective Work shall be warranted to be free of defects for a period equal to the longer of six months after completion of the corrective Work or for the remainder of the warranty period otherwise applicable.

3.7.3. The Contractor shall secure required certificates of inspection, testing or approval and deliver them to the Owner.

3.7.4. The Contractor shall collect all written warranties and equipment manuals and deliver them to the Owner.

3.7.5. With the assistance of the Owner's maintenance personnel, the Contractor shall direct the checkout of utilities and operations of systems and equipment for readiness, and assist in their initial start-up and testing, and Owner training.

3.8 ADDITIONAL SERVICES

Any Additional Services must be authorized in advance by the Owner in writing; the Contractor shall furnish or obtain from others the Additional Services. The Contractor shall be paid for these Additional Services by the Owner as herein provided to the extent they exceed the obligation of the Contractor under this Agreement. Examples of potential Additional Services are as follows:

3.8.1. Providing financial feasibility or other special studies.

3.8.2. Providing planning surveys or alternate site evaluations.

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- 3.8.3.** Providing design services relative to future facilities, systems and equipment that are not intended to be constructed as part of the Project, other than general planning and Master Planning for future work as indicated by the Program of Requirements.
- 3.8.4.** Making major revisions in Drawing, Specifications, or other documents when such revisions are inconsistent with written approvals or instructions previously given by the Owner or are due to causes beyond the control and without the fault and negligence of the Contractor or its architect/engineers or agents.
- 3.8.5.** Preparing supporting data and other services in connection with any Owner-initiated change order if the Basic Compensation is not commensurate with the services required of the contractor.
- 3.8.6.** Providing soils sampling, classification, and analysis; however, analysis of existing soils information and soils analysis during the Design and recommendations needed during the Construction Phase of the Project are not considered additional services.
- 3.8.7.** Preparing to serve or serving as an expert witness for the Owner in connection with any public hearing, arbitration proceeding, or legal proceeding; however, preparing to serve or serving as a fact witness for the Owner or rendering testimony necessary to secure governmental approval of zoning or land-use clearances for the Project shall not constitute an additional service.
- 3.8.8.** Providing surveying services such as platting, mapping, subdivision agreements, or recording subdivision plats.
- 3.8.9.** Providing additional services and costs necessitated by out-of-town travel required of and approved by the Owner other than visits to the Project and other than for travel required to accomplish the Work.
- 3.8.10.** Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted contractual practices consistent with the term of this Agreement.
- 3.8.11.** Providing design and engineering of any work outside the property line except as necessary and anticipated to provide offsite improvements for utilities; driveways, sidewalks or other improvements located along the edges of the site directly associated with and required for this Work.
- 3.8.12.** Providing consultation concerning replacement of Work damaged by fire or other causes during construction, furnishing services required in connection with the replacement of such work.
- 3.8.13.** Providing services made necessary by failure of performance of the Owner under the Construction Contract.
- 3.8.14.** Providing services in evaluating an extensive number of claims, not related to any Contractor's design errors and omissions, or construction, submitted by the Contractor or others in connection with the work, should the Contractor be successful in winning the claim.
- 3.8.15.** Preparing documents for alternate, separate, or sequential bids or providing services in connection with bidding, negotiation, or construction prior to the completion of the Construction Documents Phase that were not anticipated by the parties as part of this Agreement or prior to the GMP.
- 3.8.16.** Providing special surveys, environmental studies, and submissions required for approvals of governmental authorities or others having jurisdiction over the project.
- 3.8.17.** Providing services to extensively investigate existing conditions or facilities or to make measured drawing thereof.
- 3.8.18.** Providing services to verify the accuracy of drawings or other information furnished by the Owner.

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3.8.19. Providing analyses of owning and operating costs. Design analysis and reports required by Arizona law, such as energy conserving design, solar energy use, or life cycle analysis are to be included in the GMP design services.

3.8.20. Providing interior design and other similar services required for or in connection with the selection, procurement, or installation of furniture, furnishings, and related equipment.

3.8.21. Making significant revisions to design documents after, they have been approved by the Owner when revisions are due to causes beyond the control of the Contractor.

3.8.22. Design, coordination, management, expediting and other services supporting the procurement of materials to be obtained, or work to be performed, by the Owner, including but not limited to telephone systems, computer wiring networks, sound systems, alarms, security systems and other specialty systems which are not a part of this Agreement.

ARTICLE 4

OWNER RESPONSIBILITIES

4.1 INFORMATION AND SERVICES PROVIDED BY OWNER

4.1.1. The Owner shall provide full information in a timely manner regarding requirements for the Project, including the Owner's Program and other relevant information.

4.1.2. The Owner shall provide:

- a. All necessary information describing the physical characteristics of the site, including the following if they exist at the time of signing this Agreement (and later if made available to the Owner): surveys, site evaluations, legal descriptions, existing conditions, subsurface and environmental studies, reports and investigations;
- b. Inspection and testing services during construction as required by law or as mutually agreed; and
- c. Unless otherwise provided in the Contract Documents, assist the Contractor as appropriate to obtain necessary approvals, site plan review, rezoning, easements and assessment, necessary fees and charges required for the, use or occupancy of the Work, including legal and other required serviced.

4.1.3. The Contractor shall be entitled to rely on the completeness and accuracy of the information and services required by this Paragraph.

4.2 OWNER RESPONSIBILITIES DURING DESIGN PHASE

The Owner shall provide the Program at the inception of Design and will provide timely reviews of schedules, estimates, Schematic Design Document, Design Development Documents and Construction Documents furnished during the Design Phase as set forth in Paragraph 3.1. The Owner's review and approval of interim design submissions and the Construction Documents is for the purpose of mutually establishing a set of Construction Documents compatible with the requirements of the Project. Neither the Owner's review nor approval of any interim design submissions and Construction Documents shall be deemed to transfer any design liability to the Owner or relieve the Contractor of responsibility for preparing them in accordance with the accepted standard of care for design professionals.

4.3 OWNER RESPONSIBILITIES DURING CONSTRUCTION

4.3.1. The Owner shall review the Schedule of the Work as set forth in Subparagraph 3.3.2.4 a in timely manner.

4.3.2. If the Owner becomes aware of any error, omission or failure to meet the requirements of the Contract Documents or any fault or defect in the Work, the Owner shall give prompt written notice to the Contractor.

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4.3.3. The Owner shall communicate with the Contractor's Subcontractors and suppliers only through the Contractor. With the Contractor's prior approval, the Owner may communicate directly with the Architect/Engineer. The Owner shall have no contractual obligations to the Architect/Engineer, Subcontractors or suppliers.

4.3.4. The Owner, along with the Contractor, shall provide insurance for the Project as provided in Article 11.

4.3.5 The review or approval by the Owner of documents, schedules, etc. in no manner whatsoever relieves the Contractor of responsibility for proper preparation them, timely completion of the Work in full compliance with codes, ordinances, or the Owner's program and approved design and construction documents.

ARTICLE 5

SUBCONTRACTS

5.1 RETAINING SUBCONTRACTORS

5.1.1 The Contractor shall not retain any Subcontractor to whom the Owner has a reasonable and timely objection, provided that the Owner agrees to compensate the Contractor for any additional costs incurred by the Contractor as a result for such objections.

5.1.2 Those portions of the Work that the Contractor does not customarily perform with his own personnel shall be performed under subcontracts or by other appropriate agreements with the Contractor. The Contractor shall pre-qualify and obtain bids from Subcontractors and from suppliers of materials or equipment for the Work and, after analyzing such bids, shall evaluate such bids and present them to the Owner in an open book process, showing the Owner the results of all sub-contractor and supplier proposals. The Contractor shall make a best effort to obtain at least three qualified competitive bids for each subcontract and supplier area within the Work except where sub-contractors or suppliers are selected early prior to fully competitive pricing being possible. For any portion of the Work that the Contractor desires or customarily performs with his own personnel, the Contractor shall prepare his own bid and procure at least two (2) other sealed competitive bids from qualified bidders. The Owner will participate in the opening and evaluation of such bids and the Contractor's bid.

5.2 MANAGEMENT OF SUBCONTRACTORS

The Contractor shall be responsible for the management of the Subcontractors in the performance of their work.

5.3 ASSIGNMENT OF SUBCONTRACT AGREEMENTS

The Contractor shall provide for assignment of subcontract agreements in the event that the Owner terminates this Agreement for Cause, or for Contractor Default as provided in Paragraph 13.1. Following such termination, the Owner shall notify in writing those subcontractors whose assignments will be accepted, subject to the rights of sureties.

5.4 SELECTION OF CONSTRUCTION SUBCONTRACTORS AND SUPPLIERS

5.4.1 The Contractor shall develop subcontractor interest in the Project, pre-qualify and furnish to the Owner for his information, a list of possible subcontractors, including suppliers, who are to furnish labor, services, materials or equipment, and from whom proposals will be requested for each principal portion of the Work. The Owner will reply promptly in writing to the Contractor if the Owner knows of any objection to any such subcontractor or supplier. The receipt of such list shall not require the Owner to investigate the qualifications of proposed subcontractors or suppliers, nor shall it waive the right of the Owner later to object to or reject any proposed subcontractor or supplier. The Contractor shall only employ subcontractors who are properly licensed in Arizona, have adequate financial and personnel resources for the Work, and are fully committed to performing the Work consistent with the Construction Documents and with the same degree of skill, quality and competence required of the Contractor.

5.4.2 The Contractor shall develop and use the sub-contractor and supplier pre-qualification process proposed during their original selection, per Arizona Revised Statutes §41-2578, and reviewed by the Owner during the Pre-Construction Phase. This plan may include items such as screening potential firms for current and future workload,

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material availability and cost, subcontract or purchase order conditions, insurance, safety record, available and capable tradesmen, financial condition, prior working relationship with the Contractor, willingness to perform the work, bonding ability, ability to meet the Project Schedule, and other factors as determined by the Contractor to protect its and the Owner's interests. Final selection of sub-contractors shall be through either a qualifications based selection only, with the Owner's prior consent, or pre-qualifications followed by competitive pricing. The Contractor shall hold pre-bid and pre-award meetings with all potential and selected subcontractors to assure that all qualifications will be met, scopes of work are proper to assure full coverage of the Work, and that there is full understanding of all issues or questions by all parties.

5.4.3 The Contractor shall name any related parties or companies being considered for procurement of any labor, material, supplies or equipment for the Work.

5.4.4 For work proposed to be self performed by the Contractor, all materials and supplies used shall be competitively bid. Billable hourly rates and production rates, where applicable, for self-performed work shall be established during the pre-construction phase and be competitive with similar contractors and trades providing similar work in the same geographical area.

ARTICLE 6

CONTRACT TIME

6.1 COMMENCEMENT OF THE WORK

The Work shall commence on or about <fill in> and shall proceed in general accordance with the Schedule of Work as such schedule may be amended from time to time, subject, however, to the provisions of Paragraph 3.4. Time is of the essence in the prosecution and completion of the Work.

6.2 SUBSTANTIAL COMPLETION

6.2.1 The work shall be substantially complete on <fill in>.

6.2.2 The Contractor and the Owner understand and mutually agree that the date of beginning, rate of progress, and the time for completion of the work to be done are ESSENTIAL CONDITIONS of this Contract; and it is further mutually understood and agreed that time for completion of this Contract shall be commenced on the date of Notice to Proceed. The Contractor shall achieve Substantial Completion and Final Completion within the time periods stated in GMP Proposal or stated above, taken from the date of Notice to Proceed or the date otherwise established for the commencement of Work. Should the Contractor fail to substantially complete the Work on or before the date stipulated for Substantial Completion or such later date as may result from extension of time granted by Owner, he shall pay the Owner as liquidated damages for each consecutive calendar day that terms of the Agreement remain unfulfilled beyond the date allowed. This sum is agreed upon as a reasonable and proper measure of damages which the Owner will sustain per day by failure of the Contractor to complete work within time as stipulated; it being recognized by the Owner and the Contractor that the injury to the Owner which could result from a failure of the Contractor to complete on schedule is uncertain and cannot be computed exactly. In no way shall costs for liquidated damages be construed as a penalty on the Contractor.

6.2.3 The Contractor shall furnish such manpower, materials, facilities, and equipment and shall work such hours, including night shifts, overtime operations and Sunday and holidays, as may be necessary to insure the prosecution and completion of the Work in accordance with the approved and currently updated progress schedule. If Work in place falls behind the currently updated and approved schedule by seven (7) days or more and it becomes apparent from the current schedule that the Work will not be completed within the Contract Time or that the performance of the Work is not satisfying the requirements of the accepted schedule, the Contractor agrees that he will, as necessary, take some or all of the following actions at no additional cost to the Owner to improve his progress and expedite the progress of the Work:

1. Increase manpower, equipment or facilities in such quantities and crafts as will substantially eliminate the backlog of work;

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2. Increase the number of working hours per shift, shifts per working day, working days per week, the amount of equipment, or any combination of the foregoing, sufficient to substantially eliminate the backlog of Work; and,
3. Reschedule activities to achieve maximum practical concurrence of accomplishment of activities

6.2.4 Full or partial occupancy or use of the facility by the Owner shall not, in and of itself, constitute or be sufficient for determining a date or state of Substantial Completion; provided, however, that the Owner shall not impede the Contractor's efforts to obtain Substantial Completion by any such occupancy or use.

6.2.5 All of the following are conditions precedent for Substantial Completion: **credit as applicable for project**

- a.** Inspection, approval, occupancy and other permits issued by regulatory agencies having jurisdiction and without conditions. Unless for items or matters over which the Contractor has no control, conditional permits do not satisfy Substantial Completion requirements.
- b.** All building systems in place, complete, functional and accepted by the Architect/Engineer of record.
- c.** The HVAC system is tested and balanced with a preliminary balance report submitted to, and accepted by, the Engineer and the Owner.
- d.** Facilities can be secured by the Owner and any Contractor installed building security systems are complete and functioning <This provision shall only apply if a building security system is designed, specified and installed by the Contractor.
- e.** Landscape and site work completed.
- f.** Odor and fume generating activities are complete. This includes work such as painting, staining, floor installation, etc. This also includes odor-generating activity that originates in non-occupied spaces, but could enter and impact occupied areas.
- g.** Final cleaning is complete and all construction air filters have been replaced with clean, permanent air filters.
- h.** All dust generating activity within occupied spaces has been completed. This includes dust-generating activity that originates in non-occupied spaces, but could enter and impact occupied areas.
- i.** Draft submittal of Operations & Maintenance manuals have been submitted and accepted by the Owner, and training necessary for the Owner's personnel to maintain operation and occupancy of the facility has been completed. The draft manual shall include, but not be limited to, all required catalogue data, manufacturers' operating and maintenance instructions, manufacturers' specifications, schematics, certificates, warranties, guarantees, catalogues and price lists for any equipment, materials, supplied or parts used in the inspection, calibration, maintenance or repair of the equipment installed as part of the Work and other related documents required by this Contract. Contractor remains liable and responsible for any damage to systems or equipment until Owner receives this information and training.
- j.** All conveying systems, mechanical, plumbing, electrical, and life safety or other special systems and equipment are complete, operational, inspected and have received all required final operating permits, to the extent that the Owner can safely and legally use these systems and occupy the facility.
- k.** Remaining punch-list items do not represent a hazard or create an adverse impact to the Owner and occupants in order for the Contractor and his subcontractors to complete. Completion of punch-list items should not cause interruption or disruption to the Owner's functions due to noise, dust, odor, fumes, etc., or they must be undertaken and completed during off-hours convenient to the Owner's operations and at no added cost to the Owner.
- l.** The Owner is able to fully occupy and utilize all portions of the Work.

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6.3 DELAYS IN THE WORK

6.3.1. If causes beyond the Contractor's control delay the progress of the Work, then the GMP and/or the date of Substantial Completion may be modified by Change Order as appropriate. Such causes shall include but not be limited to: changes ordered in the Work by the Owner, acts or omissions of the Owner or separate contractors employed by the Owner preventing the Contractor from performing the Work, pending dispute resolution, Hazardous Materials, differing site conditions, adverse weather conditions not reasonably anticipated, fire, unusual transportation delays, labor disputes, acts of war or terrorism, or unavoidable accidents or circumstances. Delays beyond the Owner's control may extend the Date of Substantial Completion but will not result in any adjustment to the GMP price.

In the event delays to the project are encountered for any reason, the parties agree to undertake reasonable steps to mitigate the effect of such delays. If the Contractor wishes to make Claim for an increase in the Contract Time, written notice shall be received by the Owner within seven (7) days of occurrence or discovery of the potential delay. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

If adverse and unusually severe weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction. Claims for extensions in time due to unusual or inclement weather, or related muddy or site conditions, shall be made in conformance with the requirements of Paragraph 6.3.2. Claims for time extensions due to unusual weather conditions will be granted only where the unusual weather conditions prevented execution of items within the critical path of the Work. Unusual or inclement weather as used herein means weather that results in a minimum of a five hour delay or loss of work for at least 75% of the labor force working on critical path work that day. The contract project completion time includes the following number of rain days for the applicable months within the project's duration: January-2 days; February- 2 days; March- 2 days; April- 1 day; May- 1 day; June-1 day; July- 2 days; August- 2 days; September- 1 day; October- 1 day; November- 2 days; December- 2 days. Claims for rain days must be received by the Owner by 10:00 a.m. of the day that the rain or muddy condition occurs. The appropriate number of rain days shall be shown as single critical path activity with proper duration immediately preceding the Substantial Completion milestone on the critical path project schedule. The duration of this activity will be reduced by the approved rain days encountered.

If an extension claim is made due to mud or other job site conditions related to the unusual weather, the Owner shall be notified on the day for which the site condition is being claimed to substantiate the condition(s). Claims for time extensions due to weather related mud or other site conditions will be granted only where the required notification is given and unusual weather conditions prevented execution of items within the critical path of the work or otherwise significantly hindered the accomplishment of work as defined in Paragraph 6.3.3. Partial day extensions may be granted when some portion of the daily work could be accomplished, though not at full efficiency or capacity.

If the Contractor wishes to make a claim for an increase in the Contract Sum and/or Time Extension, he shall give the Owner written notice thereof within three (3) days after the occurrence of the event giving rise to such claim. The Contractor shall give notice before executing the Work, except in an emergency endangering life or property, in which case the Contractor shall proceed. No claim shall be valid unless so made. Contractor hereby waives all claims not so made. Any change in the Contract Sum resulting from such claim shall be authorized by a Change Order.

If the Contractor incurs damages related to expenses caused by a delay for which the Owner is responsible, which is unreasonable under the circumstances, and which was not reasonable contemplated by the parties at time of formation of this Contract, then the parties shall resolve the Contractor's claim pursuant to A.R.S. §41-2617. The Contractor shall notify the Owner in writing within five working days of such delay, specifying why the Owner is believed by the Contractor to be responsible for the delay and the percentage extent to which the Contractor believes the Owner is responsible. Failure to provide such timely notice constitutes a waiver of all rights under A.R.S. §41-2617.

Contract time shall not be adjusted unless a change affects the critical path of the Work, per the most recent approved schedule. An analysis of the changes in the critical path of the Work schedule, using contemporaneous time frame analysis such as a "fragnet" or similar analysis, must be submitted as part of the change request in order to consider a Contract time adjustment. If the Owner and Contractor do not agree with an adjustment in Contract Time or the method for determining it, the adjustment or the method shall be recommended by the Architect to the Owner for final resolution in accordance with the Contract Documents.

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In every such written claim, the Contractor shall provide the following information:

- a. Nature of the delay;
- b. Date (or anticipated date) of commencement of delay;
- c. Activities on the progress schedule affected by the delay and/or new activities created by the delay and their relationship with existing activities;
- d. Identification of person(s) or organization(s) or events(s) responsible for the delay including weather reports;
- e. Anticipated extent of the delay;
- f. Recommended action to avoid or minimize the delay, including the contractor's efforts to resolve the issue or minimize the delays undertaken to the date of the extension request.
- g. Recommended solution or action required by the Contractor.

Any claims for extensions of time for delays in transportation or for failures of suppliers or subcontractors shall be supported by facts demonstrating that the delays are beyond the contractor's control, including his efforts to overcome such delays. All costs related to delay claims by the Contractor must be supported by records and documentation demonstrating the actual cost directly related to the delay or time extension.

ARTICLE 7

COMPENSATION

7.1 DESIGN PHASE COMPENSATION

7.1.1. The cost of services performed directly by the Architect/Engineer is computed separately and is independent from the Contractor's compensation for work or services directly performed by the Contractor; these costs shall be shown as separate items on the application for payment. If an Architect/Engineer is retained by the Contractor, the payments to the Architect/Engineer shall be as detailed in a separate agreement between the Contractor and Architect/Engineer.

7.1.2. The Owner shall compensate the Contractor for services performed during the Design Phase as described in Paragraph 3.1, including preparation of a GMP proposal as described in Paragraph 3.2, as follows:
(State whether a stipulated sum, actual cost, or other basis. If a stipulated sum, state what portion of the sum shall be payable each month.)
<alter as needed

<The stipulated sum of \$<> (<dollars and <cents>), to be paid monthly upon invoice.

7.1.3. Compensation of Design Phase Services shall be equitably adjusted if such services extend beyond the date of this Agreement or as provided in Paragraph 9.1, with prior written approval by the Owner. For changes in Design Phase Services, compensation shall be adjusted as follows:
<define as needed, or use

<The actual cost, approved in writing in advance by the Owner.

7.1.4. Payments for Design Phase Services shall be due and payable within thirty (30) days following presentation of the Contractor's monthly invoice to the Owner.

7.1.5. Total costs for all Design Services shall be contained within the GMP, which shall not exceed the Owner's stated budget for the Work *<as shown in Exhibit B.*

7.2 CONSTRUCTION PHASE COMPENSATION

7.2.1. The Owner shall compensate the Contractor for Work performed following the commencement of the Construction Phase based upon the approved Schedule of Values. Before the first Application for Payment, the Contractor shall submit to the Owner a Schedule of Values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This Schedule, unless

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objected to by the Owner shall be used as a basis for reviewing the Contractor's Applications for Payment. Where multiple buildings are under this single Agreement, a separate, detailed Schedule of Values must be provided for each building or phase of work within the Application for Payment.

7.2.2. The compensation to be paid under the Paragraph 7 shall be limited to the GMP established in Amendment No. 1. Multiple GMP's may be issued as appropriate, but the sum of all GMP's shall not exceed the Owner's budget. The GMP may be adjusted under Article 9.

7.2.3. Payment for Construction Phase Services shall be as set forth in Article 10. If Design Phase Services continue to be provided after construction has commenced, the Contractor shall also continue to be compensated as provided in Article 7, or as mutually agreed.

7.2.4. Allowances and Unit Costs

The Contractor shall include in the contract sum all allowances stated in the Contract Documents or requested by the Owner. Items covered by Owner requested allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to who the Contractor has reasonable objection. Unless otherwise provided in the contract documents, allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts. Unless otherwise noted in the allowance description, Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances. Whenever costs are more than or less than allowances, the contract sum shall be adjusted accordingly by Change Order. Materials and equipment under an allowance shall be selected by the Owner in sufficient time to avoid delay in the Work. Within Thirty (30) days of Notice to Proceed, the Contractor shall provide the Owner with deadline dates for each Owner- selected item in the allowance, or other Owner-supplied, Contractor-installed items.

If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Construction Change Directive that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

7.2.5 Approval of Allowance and Contingency Uses

At least monthly, and more often if requested, an "Allowance and Contingency Use Authorization" form shall be filled out and signed by the Owner, Architect and Contractor that describes every use of allowances and contingencies made that month. Use of any and all allowance or contingency funds, including those included in the Contractor's contract, require this three party approval. This form should be attached to the monthly payment application.

ARTICLE 8

THE WORK

The Owner agrees to pay the Contractor for the Work as defined in this Article according to the GMP proposal accepted by the Owner.

8.1 COST ITEMS FOR DESIGN PHASE SERVICES

8.1.1 Compensation for Design Phase Services as provided in Paragraph 7.2.

8.2 COST ITEMS FOR CONSTRUCTION PHASE SERVICES

8.2.1. The actual wages paid for labor in the direct employ of the Contractor in the performance of the Work.

8.2.2. The actual salaries of Contractor's employees when stationed at the field office, in whatever capacity employed, employees engaged on the road expediting the production or transportation of material and equipment, and employees from the principal or branch office performing the functions listed below:

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8.2.3. The actual cost of all employee benefits and taxes including but not limited to, unemployment compensation, Social Security, health, welfare, retirement and other fringe benefits as required by law, labor agreements, or paid under the Contractor's standard personnel policy, insofar as such costs are paid to employees of the Contractor who are included in the Cost of the Work under Subparagraphs 8.2, 1 and 8.2, Paragraph 2.

8.2.4. Reasonable transportation, travel and hotel expenses of the Contractor's personnel incurred in direct connection with the Work.

8.2.5. Cost of all materials, supplies and equipment incorporated in the Work, including costs of inspection, testing, transportation, storage and handling.

8.2.6. Payments made by the Contractor to Subcontractors for work performed under this Agreement.

8.2.7. Fees and expenses for design services procured by the Contractor except as provided by the Architect/Engineer and compensated in Paragraph 7.2.

8.2.8. Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value; and cost less salvage on such items used, but not consumed that remain the property of the Contractor. The Contractor shall reimburse the Owner for the salvage value of items used or salvaged .

8.2.9. Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the site of the Work, whether rented from the Contractor or others, including installation, repair and replacement, dismantling, removal, maintenance, transportation and delivery costs at rental charges consistent with those prevailing in the area.

8.2.10. Cost of premiums for professional liability insurance and builder's risk insurance, as required by Article 11.

8.2.11. Sales, use, gross receipts or other taxes, tariffs or duties related to the Work for which the Contractor is liable.

8.2.12. Permits, fees, licenses, tests, except as outlined in Paragraphs 3.3.2, 4.1.2 and Article 5.

8.2.13. All costs associated with establishing, equipping, operation, maintaining and demobilizing the field office.

8.2.14. Reproduction costs, photographs, cost of telegrams, facsimile transmissions, long distance telephone calls, data processing services, postage, express delivery charges, telephone service at the site and reasonable petty cash expenses at the field office.

8.2.15. All water, power and fuel costs necessary for the Work.

8.2.16. Cost of removal of all non-hazardous substances, debris and waste materials.

8.2.17. Costs incurred due to an emergency affecting the safety of persons and/or property.

8.2.18. All costs directly incurred in the performance of the Work or in connection with the Project which are customary for the project location or reasonably inferable from the Contract Documents as necessary to produce the intended results.

8.2.19 All costs incurred by the Contractor to comply with the requirement in paragraph 15.10.1 that professional engineering services be provided for buried or existing utilities that were removed or removed as part of the Work

8.2.20 <All costs required for geotechnical soils testing and report. <NOTE: generally to be included in GMP

8.2.21 <All costs for a site survey. <NOTE: generally to be included in GMP

8.2.22 <All costs for materials testing per 3.3.2.11. <NOTE: include in GMP at the Owner's option

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8.3 DISCOUNTS

All discounts for prompt payment shall accrue to the Owner to the extent such payments are made directly by the Owner. To the extent payments are made with funds of the Contractor, all cash discounts shall accrue to the Contractor. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the GMP.

ARTICLE 9

CHANGES IN THE WORK

9.1 CHANGE ORDERS AND CONSTRUCTION CHANGE DIRECTIVES

9.1.1 A Change Order is a written instrument, issued after execution of this Agreement, signed by the Owner and Contractor stating their agreement upon a change and the adjustment in the GMP. Changes in the Work, which are within the general scope of this Agreement, may be accomplished by Change Order without invalidating this Agreement.

9.1.2 When the Contractor is issued a proposed change request describing intended change, within fourteen (14) days he shall indicate his proposed price to be added or deducted from contract sum due to the change, supported by full and completely detailed estimates of cost and any adjustment in time of final completion of the entire work which is directly attributable to changed work. Upon request by Owner, Contractor shall permit inspection of his and his subcontractor or supplier's original contract estimates, subcontract agreements or purchase orders relating to the change.

9.1.3 In order to facilitate checking of quotations for additions or credits, all proposals, except those so minor that their validity can be determined by inspection, shall be accompanied by a complete itemization of costs including labor, materials and subcontractor proposals, including actual invoices or quotes for materials, rentals, etc. supporting the proposed pricing. Where major cost items are Subcontracts, their costs shall be itemized also. In no case will a change involving over \$2,500.00 be approved without such itemization.

9.1.4 If the Owner approves a change, a written Change Order shall be forwarded to the Contractor adjusting the Contract Time or the Contract Sum, or both, as approved. Except as modified by the Change Order, all terms and conditions of the Contract, as previously modified, remain unchanged and in full force and effect. All parties agree that this Change Order is a final and equitable adjustment of the Contract Time and Contract Sum, and constitutes a mutual accord and satisfaction of all claims, current and future, of whatever nature caused by or arising out of the facts and circumstances surrounding this Change Order including, but not limited to, direct, indirect and consequential costs; additional time for performance; and the impact of the change specified in this change order alone or taken with other changes, on the unchanged Work. Any such claim not presented by the Contractor for inclusion in the Change Order is irrevocably waived. Change orders will not be accepted "subject to later claims or adjustments" for either cost or time.

9.1.5 Contract time shall not be adjusted unless a change affects the critical path of the Work, per the most recent approved CPM schedule. An analysis of the changes in the critical path of the Work schedule, using contemporaneous time impact analysis, must be submitted as part of the change request in order to consider a Contract time adjustment.

9.1.6 If agreement is reached as to the adjustment in compensation for performance of changed work, but agreement is not reached as to the time adjustment for such work, then Contractor shall proceed with the work at the agreed price while continuing to negotiate his claim for time adjustment. If no claim or objection is made for the time extension at the time of the pricing agreement, no change in time will be granted or may be claimed.

9.1.7 When proposed change order contains deletion of any work and Owner and Contractor are unable to agree upon the cost thereof, the Owner's estimate shall be deducted from contract price unless within fifteen (15) days Contractor presents proof that the Owner's estimate is in error.

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9.1.8 When both additions and credits are involved in any one change, the additions and credits shall be separately determined and the adjustment in Contract Sum shall be computed on the basis of the net cost before mark-ups. If the change order results in a net deduct, only overhead and sales tax mark-ups shall be applied to the deduct amount. Taxes shall always be based upon the current Contract Amount whether more or less than the original Contract Amount.

9.1.9 A Construction Change Directive is a written order prepared and signed by the Owner, directing a change in the Work prior to agreement on adjustment, if any, in the GMP or Contract Time, or both. Without invalidating the Contract, the Owner may issue a Construction Change Directive ordering changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the GMP and Contract Time being adjusted accordingly.

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

9.1.11 If the Construction Change Directive provides for an adjustment to the GMP, the adjustment shall be based upon the methods outlined in Paragraph 9.2.

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

9.1.13 A Construction Change Directive signed by the Contractor indicates his agreement including adjustment in GMP and Contract Time or the method for determining them. Such agreement shall be incorporated into a Change Order.

9.1.14 If the Contractor does not respond promptly or disagrees with the method for adjustment in the GMP, the method and the adjustment shall be determined in accordance with Paragraph 9.2.

9.1.15 Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work may be included in Applications for Payment, accompanied by a Change Order indicating the parties' agreement with part or all of such costs. For any portion of such cost that remain in dispute, the Owner will make an interim determination for purposes of monthly certification for payment for those costs. That determination of cost shall adjust the GMP on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Paragraph 9.6. Payments for Construction Change Directive items, when added to contract work payment shall not exceed the authorized GMP. Final payment on a Construction Change Directive shall not occur until incorporated in a Change Order.

When the Owner and Contractor agree with the adjustments in the GMP and Contract Time, such agreement shall be effective immediately and shall be recorded by preparation and execution of an appropriate Change Order.

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

9.1.17 If the Contractor wishes to make a claim for an increase in the Contract Sum and/or Time Extension, he shall give the Owner written notice thereof within seven (7) calendar days after the occurrence of the event giving rise to such delay claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property in which case the Contractor shall proceed. No claim shall be valid unless so made. Contractor hereby waives all claims and is barred from recovery in proper notice is not provided. Any change in the Contract Sum resulting from such claim shall be authorized by a Change Order. In every such written claim, the Contractor shall provide the following information:

- a. Nature of the delay;

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- b. Date (or anticipated date) of commencement of delay;
- c. Activities on the progress schedule affected by the delay and/or new activities created by the delay and their relationship with existing activities;
- d. Identification of person(s) or organization(s) or events(s) responsible for the delay including weather reports;
- e. Anticipated extent of the delay;
- f. Recommended action to avoid or minimize the delay, including the contractor's efforts to resolve the issue or minimize the delays undertaken to the date of the extension request.
- g. Recommended solution or action required by the Contractor.

9.2 DETERMINATION OF COST

The Contractor shall perform such extra work and charge the Owner at the reasonable and actual cost of labor and materials plus mark-ups as specified hereinafter. An increase or decrease in the GMP resulting from a change in the Work shall be determined by one or more of the following methods:

9.2.1. Unit prices set forth in this Agreement or as subsequently agreed;

9.2.2. A mutually accepted, itemized lump sum showing a detailed breakdown of all labor, materials, subcontractor or suppliers quotations;

9.2.3. Costs shall be defined in Article 8.

9.2.4 The costs for General Conditions, bonds, insurance, fee and design services shall be applied as mark-ups to the raw costs for the work at the lesser of the combined total mark-ups of the percentage rates agreed upon in Exhibit G, the Contractor's original GMP proposal; or calculated as individual rates:

- 1.** General Conditions and overhead: Ten percent (10%) of the actual, direct cost of labor and materials and equipment for all overhead and indirect costs. General Conditions and overhead includes the following: all job site general conditions and costs, including superintendence, additional supervision time related to the change, wages of time-keepers, watchmen and clerks, small tools, incidentals, field; and all home office general and administrative expenses.
- 2.** Profit: The following percentages of the actual cost of labor and materials plus General Conditions and overhead allowed:
 - .a** for the Contractor, for any Work performed by its own forces, 10 percent of the cost;
 - .b** for subcontractors involved, for any Work performed by their own forces, 10 percent of the cost;
 - .c** for the Contractor, the Work performed by its Subcontractor, or for the sub-contractor for any work performed by its sub-subcontractor, 5 percent of the amount due to the subcontractor.
- .3** Sales Tax: Statutory amount of the actual cost of materials.
- .4** Insurance: Actual cost based upon the increased contract cost as indicated by the percentage shown in Exhibit G.
- .5** Bond: Actual bond cost based upon the actual cost of labor, materials and equipment, plus overhead, plus profit, plus sales tax, as indicated by the percentage shown in Exhibit G.

9.2.5. If an increase or decrease cannot be agreed to as set forth in Subparagraphs 9.2.1 and 9.2.2 and the Owner issues a written order per Paragraph 9.1 for the Contractor to proceed with the change, the cost of the change in the Work shall be determined by the actual expense or savings of the performance of the Work resulting from the change. The Contractor shall submit time tickets, materials invoices from his own work or from his subcontractor's providing the Work in support of the actual costs incurred by the change.

9.3 NO OBLIGATION TO PERFORM

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The Contractor shall not be obligated to perform changed Work until a Change Order has been executed and signed by the Contractor and Approved by the Owner, except as provided in Subparagraph 9.2.4.

9.4 ADJUSTMENT OF UNIT PRICES

If a proposed Change Order alters original quantities to a degree that application of previously agreed to unit prices would be inequitable to either the Owner or the Contractor, the unit prices shall be equitably adjusted.

9.5 CLAIMS FOR UNKNOWN CONDITIONS

If in the performance of the Work, the Contractor finds latent, concealed or subsurface physical conditions which materially differ from the conditions the Contractor could reasonably anticipate, or if physical conditions are materially different from those normally encountered and generally recognized as inherent in the kind of work provided for in this Agreement, then the GMP compensation and /or the date of Completion shall be equitably adjusted by Change Order. Contractor shall provide written notice to the Owner promptly before conditions are disturbed and in no event later than three (3) days after first observance of the conditions, and in any case, prior to altering or removing the differing condition. The Owner will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both as warranted. If the Owner determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Owner shall notify the Contractor in writing stating the reasons.

9.6 CLAIMS FOR ADDITIONAL COST OR TIME

For any claim for an increase in the GMP compensation and/or an extension in the date of Completion, the Contractor shall give the Owner written notice of the claim within ten (10) days after the occurrence giving rise to the claim or within ten (10) days after the Contractor first recognizes the condition giving rise to the claim, whichever is later. Except in an emergency, notice shall be given before proceeding with the Work. Claims for design and estimating costs incurred in connection with possible changes requested by the Owner, but which do not proceed, shall be made within ten (10) days after the decision is made not to proceed. Any change in the GMP compensation and/or date of Substantial Completion resulting from such claim shall be authorized by Change Order.

9.7 CHANGES IN PRODUCTS OR ASSEMBLIES

After the Notice to Proceed has been executed, a formal request for the substitution of alternate products, equipment or assemblies will be considered in place of those originally specified by the Contractor and approved by the Owner, may be considered by the Owner under the following conditions: (a) The specified product cannot be delivered without project delay (b) The specified product has been discontinued (c) The specified product has been replaced by superior product (d) The specified product cannot be guaranteed as specified (e) The specified product will not fit within designated space (f) The substitution otherwise determined by the Owner to be in his best interest. The Owner will make the sole and final determination as to the suitability of the alternate item proposed, make the final decision and will notify the Contractor in writing as to whether the substitution has been accepted or rejected. If accepted, the Contractor will cause the Construction Documents to be revised as approved at the Contractor's cost. No other substitutions to Owner approved materials, assemblies or design may be made without the Owner's prior written approval.

ARTICLE 10

PAYMENT FOR CONSTRUCTION PHASE SERVICES

10.1 PROGRESS PAYMENTS

10.1.1. Once each month after the Construction Phase has commenced, the Contractor shall submit to the Owner an Application for Payment consisting of the Cost of the Work performed up to the 25th day of the month, including the cost of material stored on the site per Sub-Paragraph 10.1.8 below, or at other locations approved by the Owner, along with a proportionate share of the Contractor's Fee. The form for application for payment shall be AIA

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Document G702 'Application and Certificate for Payment' supported by AIA Document G703 'Continuation Sheet. Such application shall be notarized and supported by such data substantiating the Contractor's right to payment as the Owner may require, and reflecting retention if provided for elsewhere in this Agreement. The Contractor shall supply signed lien waivers, complying with A.R.S. § 33-1008, or other evidence of payment to all subcontractors, sub-subcontractors or material suppliers, who were to be paid from the prior month's pay application. The updated as-constructed drawings, an updated construction schedule and copies of the Contractor's daily field reports for the prior month shall be submitted with each Application for Payment for review by the Owner, and will be a pre-requisite to payment.

10.1.2. The Owner will retain ten percent (10%) of the amount on each Payment Request provided, however, that when fifty percent (50%) of the construction has been completed by the Contractor and upon request of the Contractor, the Owner will reduce the amount retained to five percent (5%) from Contractor's subsequent Payment Requests, if the Contractor's performance has been satisfactory and no other claims or cause for continued full retention between the Contractor and the Owner exist. If at any time the Owner determines that satisfactory progress is not being made or that new claims or causes have arisen, ten percent retention will be reinstated immediately and retroactively for all progress payments made under the Contract. No reduction in retention shall be made without the written consent of the Surety.

10.1.3. Within thirty (30) days after receipt of each monthly Application for Payment, or such shorter period as required by statute, the Owner shall pay directly to the Contractor the appropriate amount for which Application for Payment is made, less amounts previously paid by the Owner and required retention. As required by A.R.S. § 41-2577, the Contractor shall promptly pay each architect/engineer, subcontractor and supplier, upon receipt of payment from the Owner reflecting percentages actually retained from payments to the Contractor on account of such Architect/engineer's, Subcontractor's or supplier'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. As required by A.R.S. §41-2577, 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 portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such 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 similar manner. The Contractor also shall pay all architect/engineers the amount to which they are entitled upon receipt of payment by the Owner. The Owner shall have no obligation to pay, nor to see to the payment, of any moneys to any sub-contractor, except as may otherwise be required by law.

10.1.4. The Contractor warrants and guarantees the title to all Work, materials and equipment covered by an Application for Payment, whether incorporated in the Project or not, will pass to the Owner upon receipt of such payment by the Contractor free and clear of all liens, claims, security interests or encumbrances, hereinafter referred to as "liens."

10.1.5. The Owner's progress payment, occupancy or use of the Project, whether in whole or in part, shall not be deemed as acceptance of any Work not conforming to the requirements of the "Contract Documents".

10.1.6 The Owner may withhold a Certificate for Payment in whole or in part, to the extent necessary to protect the Owner against incomplete or unacceptable Work, or other known or suspected claims against the Contractor. If the Owner is unable to certify payment in the amount of the Application, he will notify the Contractor. If the Contractor and Owner cannot agree on a revised amount, the Owner will approve a Certificate for Payment for the amount for which the Owner is able to substantiate as complete and acceptable. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence or subsequent observations, may nullify or decertify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors, because of:

- .1 defective Work not remedied, or failure to begin remedial action to repair defective work within five (5) working days following written notification;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security

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acceptable to the Owner is provided by the Contractor;

- .3 failure of the Contractor to make payments properly to Subcontractors or materials suppliers 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, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 persistent failure to carry out the Work in accordance with the Contract Documents.

10.1.7 When the above reasons for withholding certification are removed to the satisfaction of the Owner, certification will be made for amounts previously withheld.

10.1.8. Upon Substantial Completion of the Work, the Owner shall pay the Contractor the unpaid balance of the Cost of the Work, compensation for Design Phase Services, less a sum equal to the estimated cost of completing any unfinished items as agreed to between the Owner and the Contractor as to extent and time for completion. The Owner thereafter shall pay the Contractor monthly the amount retained for unfinished items as each item is completed.

10.1.9 Per A.R.S. § 35-181.01, no pre-payment or advance deposit will be made in excess of the cost of the actual goods or services provided unless the prepayment or deposit is in the best interest of the Owner. The Owner has sole discretion to determine its "best interest" or other circumstances that may warrant pre-payment or deposits.

10.1.10 "Mobilization" or "start up" costs may be paid, or partially paid, or rejected at the sole discretion of the Owner. If fully or partially accepted, the costs must be for the value of actual Work or services provided.

10.2 SECURITIES IN LIEU OF RETENTION

10.2.1. At the Contractor's option, in lieu of the retention required in this section, the Owner will accept as a substitute an assignment of time certificates of deposits at banks licensed by this state, securities guaranteed by the United States of America, securities of this State, or shares of savings and loan institutions authorized to transact business in this State, as provided by A.R.S. §35-155 or §41-2576 and §41-2577, in an amount equal to the retention required, which shall be in the name of the Owner and be retained by the Owner as a guarantee for complete performance of this Contract. Copies of the certificates of deposit, securities or shares proposed for a particular Payment Application must be received by the Owner prior to the Owner's processing the payment, and the original must be received by the Owner prior to release of payment to the Contractor. In the event the Owner accepts substitute securities as described in this Paragraph in lieu of the retention required, the Contractor shall be entitled to receive all interest or income earned by such securities as it accrues, unless Owner claims and damages exceed the value of the securities. All costs or compensation associated with the set up or administration of the securities shall be paid from the interest accrued on those securities.

10.2.2. All such securities in lieu of retention shall be returned to Contractor by the agent within sixty (60) days after completion and final acceptance of all material, equipment, work and acceptance of all close-out documents and release processes covered by the contract if the Contractor has furnished the agent satisfactory receipts for all labor and material billed and waivers of liens from any and all persons holding claims against the Work. In no event shall the agent accept a time certificate of deposit of a bank or shares of a savings and loan institution in lieu of the retention specified unless accompanied by a signed and acknowledged waiver of the bank or savings and loan association of any right or power to set off against either the agent or the Contractor in relationship to the certificates or shares assigned.

10.2.3. In any instance where the agent has accepted substitute security, any subcontractor undertaking to perform any part of such public work shall be entitled to provide substitute security to the Contractor upon terms and conditions similar to those described and such security shall be in lieu of any retention under the subcontract.

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10.3.1. Payments may 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 applicable insurance, storage and transportation to the site for such materials and equipment stored off the site. Payments may be made on account of stored material or equipment not included in the Work but delivered and suitably stored on or off the site as follows:

- .1 Payment for stored materials may be made only for materials, equipment or fabrications produced specifically for this Project. Off-the-shelf, generic or commonly stocked warehouse materials shall not be eligible for stored materials payments. All requests for payments on stored materials shall be accompanied by supplier invoices clearly showing the item(s) description and quantities being requested for stored materials. Evidence of payment by the subcontractor or Contractor for the proposed stored materials shall accompany the invoice. The Owner will review all items to confirm quantities and materials lists. Payments will be made for only the actual cost of the material, equipment or fabrication, less any early payments discounts, taken by the contractor or subcontractor. No additional costs or mark-ups, handling or storage, coverage or stowage, etc., costs will be approved.
- .2 Material, equipment or fabrications paid for as stored materials either shall be stored on the Project site, protected from damage and weather, in covered or secured storage as needed; or stored in an off-site bonded warehouse. Other locations may be approved at the sole discretion of the Owner. Title to all stored materials shall pass to the Owner immediately upon payment to the General Contractor. A letter of title with these conditions shall accompany the pay application. The Contractor's insurance shall continue to cover the stored materials, whether stored on or off site.
- .3 Nothing in these subparagraphs shall be construed to relieve the Contractor of sole responsibility for the care and protections of materials, equipment, fabrications or Work upon which payments have been made, restoration of any damaged Work or materials, or as a waiver of the right of the Owner to require fulfillment of all terms of the Contract Documents subject to Article 11, Insurance.

10.4 FINAL PAYMENT

Final payment, consisting of the unpaid balance of the GMP, compensation for Design Phase Services, less the initial payment made under Paragraph 7.1 shall be due and payable when the Work is fully completed and accepted by the Owner. Before issuance of final payment, the Owner may request satisfactory evidence that all payrolls, materials bills and other indebtedness connected with the Work have been paid or otherwise satisfied.

10.5 Should it become necessary for the Owner to incur additional outside consultant costs during the course of construction, or subsequent to the final inspection, due to the Contractor's failure to maintain required quality control or schedule, or the Contractor's acts, omissions or negligence, the consultant will provide all necessary additional services at his standard hourly rate and such costs will be reimbursed by the Contractor or deducted from monies still due the Contractor. These costs are in addition to any liquidated damages.

ARTICLE 11

GENERAL INSURANCE REQUIREMENTS

11.1 GENERAL REQUIREMENTS

The Owner requires that all insurers:

- 11.1.1.** Be licensed or approved to do business within the State of Arizona.
- 11.1.2.** Write required insurance on a per occurrence basis, except that Professional Liability and Pollution Liability are acceptable written on a claims-made basis.

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11.1.3. Contractor shall name MCCCD, its and its agents, representatives, officers, directors, officials, employees, and volunteers as "Additional Insureds" for work that is being performed by the Contractor. Copies of endorsements must be attached on all policies, except the Workers' Compensation and the Professional Liability with regard to liability and defense of suits arising from operations by or on behalf of the Contractor with respect to the work or project at issue. Contractor shall provide a Certificate of Insurance and if requested, copies of all policies and/or endorsements before commencement of work.

11.1.4. Possess a minimum A.M. Best's Insurance Guide rating of A- VI.

11.1.5 Via Certified Mail, provide a minimum of 30 days advance written notice of cancellation or non-renewal of policies required under the contract to MCCCD.

11.1.6. Provide a completed Certificate of Insurance containing the following information:

- Name and address of agent, phone number and fax number
- Name of insurance company(ies) and policy number(s)
- Policy period
- Name and address of insured
- Description of coverage(s)
- Name/Number of Project
- Policy limits
- Special instructions or terms of coverage (for example: addition of MCCCD as additional insured, identification of project or operations with respect to certificate being issued). Provide copies of the specified endorsements with the Certificate of Insurance.
- MCCCD listed as the certificate holder
- Signature of the insurer's agent or representative and date

11.1.7. MCCCD requires that all policies of insurance be on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by MCCCD.

11.1.8. All liability policies must provide a Separation of Insureds clause, also known as cross liability coverage.

11.1.9. MCCCD requires that the Contractor provide a renewal certificate at least 15 days prior to expiration.

11.1.10. MCCCD also requires proof of professional liability and pollution liability coverages be provided for up to three (3) years after the completion of a project.

11.1.11. The Contractor agrees that the insurance requirements specified in the contract do not reduce the liability Contractor has assumed in the indemnification/hold harmless section of the contract.

11.1.12 MCCCD reserves the right to approve the security of the insurance coverages provided by the insurance company (ies) terms, conditions, and the Certificate of Insurance. Failure of the Contractor to fully comply with these requirements during the term of the Contract will be considered a material breach of contract and will be cause for immediate termination of the Contract at the option of MCCCD.

11.1.13. At the execution of this Contract, Contractor shall furnish the MCCCDD Risk Manager with Certificates of Insurance, or formal endorsements as required by the Contract, issued by Contractor's insurer(s), as evidence that policies providing the required coverages, conditions, and limits required by this Contract are in full force and effect. Such Certificates and endorsements shall identify the Contract or Project. Each insurance policy required by

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this Contract shall be endorsed to state the coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the MCCCDC Risk Manager. Such notice shall be sent directly to:

Len Wonsey, Purchasing Department
Maricopa County Community College District
2411 W. 14th Street
Tempe, AZ 85281

11.2 INSURANCE AND RELATED REQUIREMENTS

11.2.1 Minimum Insurance Requirements

Contractor shall obtain and maintain the minimum insurance coverages set forth below. By requiring such minimum insurance, MCCCDC shall not be deemed or construed to have assessed the risk that may be applicable to Contractor under this Contract. Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverages. The Contractor is not relieved of any liability or other obligations assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. The insurance coverages stated below do not replace any surety (performance, payment, or maintenance) bonds as required by contract.

Contractor shall promptly advise MCCCDC in the event any general aggregates or other aggregate limits are reduced below the required per occurrence limit. At the Contractor's expense, Contractor will reinstate the aggregate limits to comply with the minimum requirements and shall furnish to MCCCDC a new certificate of insurance showing such coverage is in force.

11.2.2 Required Coverages

- .1 Commercial General Liability**—ISO CG 00001 or equivalent. Coverage to include:
 - a. Premises and Operations
 - b. Explosions, Collapse and Underground Hazards
 - c. Personal/Advertising Injury
 - d. Products/Completed Operations
 - e. Liability assumed under an Insured Contract (including defense costs assumed under contract)
 - f. Broad Form Property Damage
 - g. Independent Contractors
 - h. Limited Pollution Liability Extension Endorsement with required modification to f. (1)(a), ISO CG 2415 (1998 Edition)
 - i. Pollution Exclusion Limitation Endorsement—Overspray
 - j. Designated Construction Project(s) General Aggregate Limit, ISO CG 2503 (1997 Edition)
 - k. Additional Insured – Owners, Lessees or Contractors Endorsement, ISO Form 2010 (1997 Edition or equivalent)
 - l. Additional Insured – Owners, Lessees or Contractors-Completed Operations Endorsement, ISO Form CG 2037 (10/2001 Edition or equivalent)
- .2 Automobile Liability** including all:
 - a. Owned Vehicles
 - b. Non-owned Vehicles
 - c. Hired Vehicles
 - d. Personal Injury Protection (where applicable)

Endorsements CA9948 and MCS-90 are required if the Contractor is transporting any type of hazardous materials.

- .3 Workers' Compensation**
 - a. Statutory Benefits (Coverage A)
 - b. Employers Liability (Coverage B)

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.4 Professional Liability (Including Design Build Errors and Omissions)

Whenever the work under this contract includes Professional Liability, including design and engineering professional registrant services, Contractor shall maintain Contractors Professional Liability covering claims alleging an act, error or omission in providing professional services under the contract. Coverage shall apply on a direct and contingent basis. Faulty workmanship exclusion shall be amended to state *“This exclusion shall not apply to those damages which result from a negligent act, error, or omission in the rendering of or failure to render professional services by an insured or others from whom the insured is legally responsible.”* The Contractor shall obtain an amendment to the policy amending the contractual exclusion to state that *“this exclusion does not apply to liability assumed under a written contract or agreement.”*

.5 Contractors Pollution Liability

MCCD requires this coverage whenever work at issue under this contract involves potential pollution risk to the environment or losses caused by pollution conditions (including asbestos) that may arise from the operations of the Contractor described in the Contractor’s scope of services. Policy shall cover the Contractors completed operations. Such coverage shall include:

- a. Bodily Injury, sickness, disease, mental anguish or shock sustained by any person, including death.
- b. Property Damage including natural resource damages, physical injury to or destruction of tangible property including resulting loss of use, clean up costs, and the loss of use of tangible property that has not been physically injured or destroyed.
- c. Defense, including costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages.
- d. Cleanup costs, removal, storage, disposal, and or use of the pollutant; and defense, including costs and expenses incurred in the investigation, defense, or settlement of claims.

Coverage shall apply to sudden and gradual pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, natural gas, waste materials, or other irritants, contaminants, or pollutants (including asbestos). If the coverage is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three years beginning from the time that work under this contract is completed.

Provide Limited Pollution Liability Extension, modifying the Pollution Exclusion Wording as Required. Exclusion f. (1)(a) of Coverage A (Section I) is replaced with the following:

“At or from any premises, site or location that is or was at any time owned or occupied by, or rented or loaned to, the insured;”

11.2.3 LIMITS OF LIABILITY

The Contractor shall carry the following limits of liability:

| Commercial General Liability | |
|---|--------------|
| General Aggregate ¹ | \$ 5,000,000 |
| Products/Completed Operations Aggregate | \$ 5,000,000 |
| Each Occurrence Limit | \$ 5,000,000 |
| Personal/Advertising Injury | \$ 5,000,000 |
| Fire Damage (Any One Fire) | \$ 50,000 |
| Medical Payments (Any One Person) | \$ 5,000 |
| Automobile Liability | |
| Bodily Injury/Property Damage (Each Accident) | \$ 1,000,000 |
| Workers’ Compensation | |
| Coverage A (Workers’ Compensation) | Statutory |

¹ Designated Construction Project(s) General Aggregate (ISO Form CG2503, 1997 edition or equivalent.)

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| | |
|----------------------------------|---|
| Coverage B (Employers Liability) | \$ 500,000/accident \$ 500,000/disease \$ 500,000/all disease |
|----------------------------------|---|

| | |
|---|--------------|
| Professional Liability (including Design Build Errors & Omissions) | |
| Each Occurrence/Incident/Claim | \$ 5,000,000 |
| Aggregate | \$ 5,000,000 |
| MCCD requires Contractor to keep this policy in effect for three (3) years after completion of the project. | |
| Contractors Pollution Liability | |
| Per Loss | \$ 5,000,000 |
| Aggregate | \$ 5,000,000 |
| MCCD requires Contractor to keep this policy in effect for three (3) years after completion of the project. | |

The required insurance coverages shall be maintained throughout the term of this contract and, except for Automobile Liability and Workers' Compensation, for a period of two (2) years after the date of substantial completion of the project, and three (3) years after the date of Substantial Completion of the Project for Professional Liability and Pollution Liability.

11.3 BUILDER'S RISK INSURANCE

11.3.1 Unless otherwise provided, the Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the State of Arizona, Builder's Risk Insurance in the amount of the initial Contract Amount as well as subsequent modifications for the entire project at the site on a replacement cost basis without voluntary deductibles. Such Builder's Risk Insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than MCCD has insurable interest in the property to be covered, whichever is earlier. The Builder's Risk insurance shall include interests of MCCD, the General Contractor, subcontractors and sub-tier contractors in the project.

11.3.2 Builders' Risk Coverage shall be on a Special Covered Cause of Loss Form and shall include theft, vandalism, malicious mischief, collapse, false-work, temporary buildings and debris removal including demolition, increased cost of construction, architect/engineer's fees and expenses, flood and earthquake, and all below and above ground structures, water and sewer mains, and other utilities. Coverages shall be written for 100% of the completed value (replacement cost basis) of the work being performed. MCCD agrees to provide the necessary exposure base information for quotation by the Builder's Risk carrier. MCCD agrees to pay the premium associated with the Soft Costs coverage as a change order, if MCCD decides to purchase this coverage.

11.3.3 The Builder's Risk shall also include the follow amendments/provisions:

- a. Partial Occupancy Clause. The policy shall specifically permit partial occupancy at or before Substantial Completion or final acceptance of the entire Work. Partial occupancy or use of the Work shall not commence until the insurance company or companies providing insurance have consented to such partial occupancy or use. MCCD and Contractor shall take reasonable steps to obtain consent of the insurance company or companies, and agree to take no action, other than upon mutual written consent, with respect to occupancy or use of the work that could lead to cancellation, lapse or reduction of insurance.
- b. Deletion of Coinsurance Provisions
- c. Replacement Costs Basis - including modification of the valuation clause to cover all costs needed to repair the structure or work (including overhead and profits) and will pay based on the values figured at the time of rebuilding or repairing, not at the time of loss
- d. Deletion of any exclusions pertaining to Law, Ordinance or Regulation.
- e. Deletion of exclusions for design errors & omissions (for design-build contracts only)

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- f. Modification of the electrical apparatus breakdown exclusions and the mechanical breakdown exclusion so that it does not apply to subsequent loss or damage
- g. Modify exclusion pertaining to damage to interior of building caused by any covered perils.
- h. Resultant Damage Extension including amendment of exclusion pertaining to design error, (for design-build contracts only)
- i. Settling, cracking, shrinking or expansion (including coverage for loss resulting from settling, cracking, shrinking or expansion) of foundation walls, floors, or other parts of the structure,
- j. Other coverages may be required if provided in Contract Documents.

11.3.4 The deductible shall not exceed \$50,000 and shall be the responsibility of the Contractor.

11.3.5 The Policy shall be amended to show thirty (30) days notice of cancellation. Such notice shall be given to the MCCD and Contractor.

11.3.6 The Contractor shall pay subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require subcontractors to make payments to their sub-subcontractors in similar manner.

11.3.7 The Contractor shall file with MCCD a copy of the policy that includes the insurance coverages required in this section. The policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to the Project.

11.3.8 The Contractor shall purchase and maintain Equipment Breakdown Coverage (a.k.a. Boiler & Machinery) required by the Contract Documents or by law, which shall specifically cover insured equipment during installation and testing (including hot testing) and until final acceptance by the MCCD; this insurance shall include interests of MCCD, Contractor, subcontractors and sub-tier contractors in the work; all shall be named as additional insureds.

11.3.9 All deductibles will be assumed by the Contractor. If MCCD is damaged by the failure or neglect of the Contractor to purchase or maintain insurance as described above,, then the Contractor shall bear all reasonable costs properly attributable thereto.

11.3.10 Contractors engaged in modifications of existing structures are required to secure a Partial Occupancy Endorsement as described in 11.3.3(a) that enables MCCD to occupy the facility during construction.

11.4 INSTALLATION FLOATER INSURANCE COVERAGE

If the Contractor is installing only materials and/or equipment in existing structures or installing infrastructure (i.e., roads, bridges, culverts, underground tunnels, machinery, equipment, etc.) separate from a building, then Contractor must provide Installation Floater Insurance Coverage. Coverage is to be written on a Special Covered Cause of Loss Form and is to include theft, faulty workmanship, mechanical or electrical damage during testing and labor costs to repair damaged work, soft costs (expediting expenses); deletion of any coinsurance provision is also required; any exclusions for underground exposures to be deleted. Flood and Earthquake coverages are also to be provided. Contractor is responsible for this coverage. Coverage shall end when the work is granted Substantial Completion. .

11.5 CONTRACT OBLIGATIONS

The insurance, as provided by the Owner for Contractors and Subcontractors under this Article 11 is not intended to, and shall not be construed to limit, qualify, or waive any liabilities or obligations of Contractor or Subcontractors, assumed or otherwise, under this Contract.

11.6 RIGHTS OF INSURED AGAINST OTHER INSUREDS

Inclusion of more than one insured, under such insurance, shall not operate to impair the rights of one insured against another insured, and except for the limits of liability, the coverages afforded by such insurance shall apply as though a separate policy had been issued to each insured.

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11.7 PERFORMANCE OF CONTRACT TO EXCLUDE INSURANCE COST

Compensation payable to Contractor for the performance of the Work shall include all costs of insurance as it relates to the coverage required of the Contractor described and provided in this Article 11. Costs for overlapping insurance coverage maintained by Contractor shall not be reimbursable.

11.8 EFFECT OF SUBMISSION OF CERTIFICATES

The Owner shall review any Certificates of Insurance provided by the Contractor or to check or verify the Contractor's compliance with any and all requirements regarding insurance imposed by the Contract Documents. The Contractor is fully liable for the amounts and types of insurance required herein and is not excused should any policy or certificate of insurance provided by the Contractor not comply with any and all requirements regarding insurance imposed by the Contract Documents.

11.9 FAILURE OF COMPLIANCE

Should the Contractor fail to provide and maintain in force any and all insurance, or insurance coverage required by the Contract Documents or by law, or should a dispute arise between the Owner and any insurance company of Contractor over policy coverage or limits of liability as required herein, the Owner shall be entitled to recover from the Contractor all amounts payable, as a matter of law, to the Owner or any other parties, had the required insurance or insurance coverage been in force. Said recovery shall include, but is not limited to interest for the loss of use of such amounts of money, plus all attorney's fees costs and expenses incurred in securing such determination and any other consequential damages arising out of the failure of the Contractor or insurance company to comply with the provisions of the Contract Documents, or any policy required hereby, or any other requirements regarding insurance imposed by law. Nothing herein shall limit any damages for which Contractor is responsible as a matter of law.

ARTICLE 12

PROTECTION OF PERSONS AND PROPERTY

12.1 SAFETY PRECAUTIONS AND PROGRAMS

12.1.1. The Owner or their agents employees or representatives, are not responsible for the means, methods, techniques, sequences or procedures utilized by the Contractor, or for safety precautions and programs in connection with the Work. The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.

12.1.2. Any notice given to the Contractor by the Owner of a safety or property protection violation will not relieve the Contractor of sole and complete responsibility for the violation and the correction thereof, or of sole liability for the consequences of said violation to inspect or review Contractor's safety program or precautions or to enforce Contractor's compliance with the requirements of Article 12; nor will it impose any continuing obligation upon the Owner to provide such notice to Contractor or any other person or entity.

12.2 SAFETY OF PERSONS AND PROPERTY

12.2.1 SAFETY PROGRAM

Contractor shall be responsible for initiating, maintaining, and supervising all safety programs in connection with this Work. Contractor shall take all necessary precautions for the safety of, and shall provide all necessary protection to prevent damage, injury, or loss to:

1. All employees on the Work and all other persons who may be affected thereby;
2. The Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or the Contractor's Subcontractors, regardless of tier; and
3. Other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements,

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roadways, structures, utilities not designated for removal, relocation or replacement in the course of construction.

12.2.2 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. Contractor shall erect and maintain, as required by existing conditions and progress on the Work, all necessary 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.

12.2.3 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 the Owner and users of adjacent utilities.

12.2.4 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.

12.2.5 The Contractor shall promptly remedy all damage or loss to any property referred to in Clauses 12.2.1.2 and 12.2.1.3 caused in whole or in part by the Contractor, any Subcontractor, and Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible under Clause 12.2.1.2 and 12.2.1.3, except damage or loss caused by the acts or omissions of the Owner or anyone directly or indirectly employed by it, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Contractor.

12.2.6 The Contractor shall designate a responsible member of his organization at the sites whose duty shall be the prevention of accidents and monitoring of the Work to insure compliance with all applicable laws, ordinances, rules, regulations and lawful orders of public authority bearing on the safety of persons or protection of property. This person shall be the Contractor's Superintendent unless otherwise designated by the Contractor in writing to the Owner.

12.2.7 Contractor warrants that Contractor is aware of, and understands the hazards which are presented to, persons, property, and the environment relating to, and arising out of, the Contractor's work or service, as described in this Contract's scope of work or service. In the event the Contractor or Contractor's Subcontractor is working or operating in an unsafe manner, the Contractor will immediately take full and appropriate steps to assure the safety of those working in the construction area or Work site.

12.3 EMERGENCIES

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 change in the GMP, compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 9 for Changes in the Work.

ARTICLE 13

SUSPENSION OR TERMINATION OF THE AGREEMENT AND OWNER'S RIGHT TO PERFORM CONTRACTOR'S RESPONSIBILITIES

13.1 OWNER'S RIGHT TO PERFORM CONTRACTOR'S OBLIGATIONS and TERMINATION BY THE OWNER FOR CAUSE

13.1.1 The Owner may terminate or default the Contractor upon actual or anticipated, persistent or repeated occurrence of, or failure to, correct any one or more of the following:

- .1** If the Contractor fails to supply, or fails to cause to supply, sufficient skilled architect/engineers, workman or suitable materials or equipment required for the timely and proper progress and/or completion of the Work;

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- .2 If the Contractor, upon payment by the Owner, fails to make prompt payment to architect/engineers, subcontractors or suppliers at any tier, for materials, labor or equipment due, or approved in the Application for Payment, in accordance with the respective agreements between the Contractor, architect/engineers and the subcontractors;
- .3 If the Contractor fails to comply with laws, ordinances, rules, codes, regulations, orders or similar requirements of any public entity having jurisdiction or specified by this Contract;
- .4 If the Contractor refuses or fails to prosecute the work, or any separable part, with such diligence as will ensure its completion within the agreed upon time; or if the Contractor fails to produce and pursue the required recovery schedules; or if the Contractor fails to complete the Work within contract dates of Substantial or Final Completion;
- .5 If the Contractor fails to follow any reasonable instruction by the Owner;
- .6 If the Contractor performs Work that deviates from the Contract Documents, or fails to remove, replace or repair improper or inadequate Work when directed by the architect/engineer or Owner;
- .7 If the Contractor fails to obtain or maintain required bonds, insurance, licenses or permits;
- .8 If the Contractor has repeated or excessive safety violations, whether officially reported or not, or fails to remedy serious safety violations;
- .9 If the Contractor otherwise breaches or violates in any material way any provision or requirements of these Contract Documents or of any other contract between the Owner and Contractor.

13.1.2 Once the Owner determines that sufficient cause exists, the Owner may terminate or default the Contract without prejudice to any other right or remedy the Owner may have in the Contract Documents or in law. Once the Owner determines that sufficient cause exists, the Owner may terminate or default the Contract after giving the Contractor and its surety notice by issuing a written Declaration of Default. If Contractor fails to cure, or demonstrate reasonable effort to cure, such problem within three Days, and completely cure such problem within seven Days, then Owner may give a second written notice to Contractor and surety of its intent to terminate the Agreement within seven Days. If Contractor, within such second seven Day period, fails to cure such problem, then Owner may declare the Agreement immediately terminated for default by providing written notice to Contractor and surety of such declaration. After expiration of this seven day period, the Owner shall have the sole discretion to permit the Contractor to remedy the cause for the contemplated termination without waiving the Owner's right to terminate the Contract.

13.1.3 In the event that the Contract is terminated or defaulted, the Owner may take over the Work and prosecute to completion, by contract or otherwise, and may exclude the Contractor from the site. The Owner may take possession of the Work and all tools, construction equipment, machinery and plant which may be on site of the Work, and the use of same to the full extent that they can be used by the Contractor, and without liability to the Contractor except to return them undamaged, reasonable wear and tear excepted, at such time as any such item no longer has utility for completion of the Work. The Owner may also take possession of all material and appliances stored at the site and finish the Work as the Owner deems expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is completed.

13.1.4 Immediately upon Termination for Cause or Default, title to all completed work, work in progress and stored materials passes to the Owner. If the unpaid balance of the Contract Sum exceeds the Owner's direct and indirect cost and expenses of completing the Work, including compensation for the additional professional, architect/engineer, internal or additional procurement costs, lost revenue, interest, legal or other required services and damages incurred by the Owner and not expressly waived, such excess shall be used to pay the Contractor for the Work it performed. If such costs exceed the unpaid balance, the Contractor or its surety shall pay the difference to the Owner, or at the sole discretion of the Owner, the difference due may be deducted from balances due on other contracts between the Owner and Contractor. In exercising the Owner's right to prosecute the completion of the Work, the Owner shall have the right to exercise its sole discretion as to the manner and methods of completing the Work. In the event that the Owner accepts bids for corrective Work or completion of the Project, or the Surety assumes responsibility for corrections or

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completion of the Work, the Contractor shall not be eligible for the award of such contracts or work at the Owner's sole option.

13.1.5 The Owner shall have the option of requiring any, all or none of the architect/engineer, subcontractors or suppliers to perform according to their subcontracts and purchase orders, and may assign any or all of the subcontracts to a general contractor selected to complete the Work.

13.1.6 If the Owner takes over the Work, unexecuted orders entered into by the Contractor for performance of any part of the Work will be effective upon acceptance by the Owner in writing, and only as to those subcontracts and purchase orders which the Owner designates in writing. The Owner may accept assignment at any time during the course of construction prior to Final Completion. All subcontracts and purchase orders shall provide that they are freely assignable by the Contractor to the Owner and its assigns. The assignment is part of the consideration to the Owner for entering into this Contract and may not be withdrawn prior to Final Completion of the Work.

13.1.7 In the event the Contract is terminated and it is determined for any reason that the Contractor was not in default, the termination shall be deemed a Suspension for Convenience of the Owner and the rights and obligations of the parties shall be determined in accordance with Paragraph 13.2.

13.1.8 This Contract may be terminated by the Owner under the conditions stated in A.R.S. § 38-511.

13.2 SUSPENSION BY THE OWNER FOR CONVENIENCE

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

13.2.2 The Contract Sum and the Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption. Adjustment of the Contract Sum shall include pro-rated profit for the Work completed at the time of the Suspension. No adjustment shall be made to the extent:

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

13.2.3 If funds approved by the Legislature, by public vote, or by the District Governing Board to perform this Work become unavailable for payment under this Contract, the Owner may delay the Work for a period up to six months, after which date if no approved or apportioned funds are made available, this Contract shall terminate at the option of the Owner. In the event of such delay or termination, the Owner shall pay the Contractor under the Contract through the date of Work stoppage, but only direct job site costs may be recovered by the Contractor for damages reasonably incurred after the date of Work stoppage.

13.3 TERMINATION BY THE OWNER FOR CONVENIENCE

13.3.1 For its own convenience upon seven days' written notice, the Owner may, at any time, terminate the Contract in whole or in part for the Owner's convenience and without cause. Such Termination shall be effective at the time and manner specified in the Notice. In such case, the Contractor shall be paid in accordance with Subparagraph 13.3.2. Such termination shall be without prejudice to any claims which the Owner may have against the Contractor.

13.3.2 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, which shall be the unpaid progress payments from the Schedule of Values for completed work or work in progress plus the proportional overhead and profit from the Schedule of Values due on that Work only, materials and equipment stored on the site but not yet installed in the Work, plus the retention held to date, along with reasonable, direct job site costs incurred by reason of such termination, substantiated in accordance with Paragraph 9.2.

13.3.4 Unless shown as a defined payment line on the Schedule of Values, non-recurring costs, such as project mobilization, or other indirect project start-up costs will not be paid or reimbursed. No payment will be made for items such as home office overhead and profit, anticipated profit, or profit on work not yet performed.

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13.4 TERMINATION INFORMATION REQUIRED FROM THE CONTRACTOR

13.4 In the event of termination, for any reason, or default by the Contractor, the following shall be supplied to the Owner and bond company, or their representative, as requested, within seven calendar days of the request:

- .1 subcontract information, including copies of all subcontracts, and both successful and unsuccessful subcontract proposals, including all accounting information related to the subcontracts
- .2 purchase order information, including full copies of all purchase orders with all attachments, and all related correspondence, take-off sheets, change notice proposals, accounting and payment information, etc.
- .3 complete payroll information, including computations of labor burden chargeable to the project, for all personnel employed directly by the Contractor
- .4 complete information on all Contractor owned equipment or equipment rentals associated with this Work
- .5 other job cost or progress support information related to general conditions costs, insurance or bond coverage, daily job superintendent reports, etc.
- .6 summaries of costs billed during the period and final/to-date detailed job cost history.
- .7 all drawings, manuals, submittals, narratives, tests, etc., associated with the Work.

13.5. DEFAULT OR TERMINATION OF OTHER ON-GOING PROJECTS

In the event of termination or default of the Contractor, the Owner may terminate or default other on-going Contracts held with the same Contractor. Where termination or default occurs, the Contractor shall take action as described in Subparagraphs 13.6, and be entitled to payment for termination as described in Subparagraph 13.3.2, above, for other On-Going projects in good standing, only when the termination is for Owner's convenience.

13.6 PROTECTION AND SECURITY FOR WORK IN THE EVENT OF SUSPENSION, TERMINATION OR DEFAULT

Upon receipt of written notice from the Owner of suspension, termination or default, whether for the Owner's convenience or for cause, the Contractor shall:

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the completed Work and Work in progress, and property related to the Agreement that is in the possession of the Contractor and which the Owner has or may acquire an interest including stored materials;
- .3 shall maintain site security until directed by the Owner or other arrangements are made by the Owner or Surety and the Contractor is notified in writing to discontinue such services;
- .4 except for Work directed to be performed prior to the effective date of termination stated in the notice, and upon direction from the Owner, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.
- .5 The Contractor will be reimbursed for the reasonable and direct costs to maintain on-going security and protection as required above upon presentation and approval of supporting documentation. Estimated costs for these requirements shall be reviewed and approved in writing by the Owner in advance.

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13.7. All requirements of Article 13 shall be included as flow-down requirements in all sub-contracts and supplier purchase orders.

13.8 TERMINATION BY THE OWNER FOR PRIOR TO ESTABLISHING GUARANTEED MAXIMUM PRICE

13.8.1 If the GMP is not within the Owner's project budget, the Owner reserves the right to terminate this Agreement and proceed with the Project as a Design-Bid-Build or other delivery method of the Owner's choice. This Agreement will be terminated with no further obligations except payment of that portion of the Contractor's fee earned to that point as specified in the General Conditions and Exhibits.

13.8.2 Prior to execution by both parties of an Amendment establishing the Guaranteed Maximum Price, the Owner reserves the right, at its discretion and without cause, to terminate this Contract at any time. If the Agreement is terminated prior to establishing the GMP, the Contractor shall be equitably compensated for preconstruction phase services actually performed and construction related costs actually incurred prior to its giving or receipt of notice of termination and the reasonable costs and expenses attributable to such termination. Reimbursement shall not include any anticipated overhead or profit on Work that was not executed. If there is no mutual agreement, the final determination will be made in accordance with Article 14. The Owner will make the final payment within sixty Days after the Contractor has delivered the last of the partially or otherwise completed work items and the final fee has been agreed upon.

ARTICLE 14

DISPUTE RESOLUTION

14.1 If a dispute arises out of or related to this Agreement, or its alleged breach, and if that dispute has not been settled through direct discussions within a reasonable period, the parties to this Agreement agree to settle the dispute as described below. Each party further agrees that it will endeavor to follow a similar dispute resolution procedure to resolve any disputes against any third parties that may arise out of or relate to the work. Any claim or dispute between the Contractor and the Owner arising out of or relating to this Contract, which has not been resolved in a manner acceptable to both the Contractor and the Owner, shall be resolved pursuant to the Maricopa County Community College District Purchasing Procedures Manual, Section 902, "Contract Claims and Dispute Resolution" (<http://www.maricopa.edu/purchasing/pmanual/902.htm>). The prevailing party in any litigation arising out of this Agreement shall be entitled to recover attorneys' fees and other reasonable, substantiated costs associated with the litigation from the other party based upon the reasonable hourly rate for attorneys with similar experience in the community.

14.2 The parties agree that the procedures set forth or identified in this Article shall be the exclusive means for resolving disputes arising under the Contract. The Contractor acknowledges and understands that it must follow this process before instituting any judicial proceeding and that all decisions reached, along with their reasoning, shall become part of the legal record of any proceeding.

14.3 No suit or action shall be commenced hereunder by any claimant other than in the Arizona Superior Court for Maricopa County. The procedures described above for resolving claims shall be exhausted before any lawsuit may be filed.

14.4 Nothing in this Contract shall be construed to waive the requirements of Arizona Revised Statutes Sections 12-820 et seq. In addition to the requirements of the Contract, the Contractor shall file any notice of claim under the Contract within the time limits and in the manner specified in Arizona Revised Statutes Section 12-821.01.

14.5 Unless otherwise agreed in writing, the Contractor shall carry on the work and maintain its progress during the resolution of any claim or controversy and the Owner shall continue to make payments that are due and owing to the Contractor, and not in dispute, in accordance with this Contract.

ARTICLE 15

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MISCELLANEOUS PROVISIONS

15.1 ASSIGNMENT

Neither the Owner nor the Contractor shall assign their interest in this Agreement without the written consent of the other except as to the assignment of proceeds.

15.2 GOVERNING LAW

The Contract shall be governed by the laws of the State of Arizona.

15.3 SEVERABILITY

The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

15.4 NO WAIVER OF PERFORMANCE

The failure of either party to insist, in any one or more instances, on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition right with respect to further performance.

15.5 TITLES

The title given to the Articles of this Agreement are for ease of reference only and shall not be relied upon or cited for any other purpose.

15.6 CANCELLATION DUE TO FAILURE TO FUND

Each payment obligation of the Owner created hereby is conditioned upon the availability of funds that are allocated for the payment of such an obligation. The Owner acknowledges and agrees that funds have been allocated for the Work. If funds are subsequently not allocated and available for the continuance of the Contractor's services, this Agreement may be terminated by the Owner at the end of the period for which funds are available. The Owner shall notify the Contractor at the earliest possible time if the Contractor's services will or may be affected by a shortage of funds. No penalty shall accrue to the Owner in the event this provision is exercised, and the Owner shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph. This provision shall not be construed so as to permit the Owner to terminate this Agreement solely in order to acquire similar services from another Contractor.

15.7 CONFLICT OF INTEREST

15.7.1 Consistent with the Maricopa Community College District Purchasing Procedures Manual, Section 401, "Specifications", no person preparing or assisting in the preparation of specifications, plans or scopes of work shall receive any direct benefit from the manufacturer, supplier or sales representative for the utilization of those specifications, plans or scopes of work. Contractor recommendations shall be made only to provide the best value to, and be in the best interest of, the Owner. A violation of the clause may be considered a material breach of the terms of this Agreement.

15.7.2 This Agreement may be terminated by the Owner pursuant to A.R.S. Section 38-511, regarding Conflict of Interest of Officers and Employees.

15.8 EQUAL OPPORTUNITY

15.8.1 The Contractor shall maintain policies of equal employment opportunity and non-discrimination in compliance with all applicable Federal, State and local laws, rules and ordinances, including but not limited to A.R.S. Title 41, Chapter 4, Executive Order 99.4, and as follows:

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15.8.2 The Contractor and all Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual preference, national origin, disability, disabled or Vietnam era veteran status. The contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, national origin, disability, disabled or Vietnam era veteran status. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

15.8.3 The Contractor and all Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, disability, disabled or Vietnam era veteran status.

15.9 INSPECTION AND AUDIT

15.9.1 Under the provisions of Arizona Revised Statutes Section § 41-2548, the Contractor's records related to this Contract shall be subject to audit. Such records shall include, but not be limited to, accounting records, written policies and procedures, subcontractor files, original estimates, estimating work sheets, correspondence, change order files (including documentation covering negotiated settlements), back-charge logs and supporting documentation, general ledger entries related to this Work, insurance rebates and dividends, and any other Contractor records which may have a bearing on matters of interest to the Owner in connection with the Contractor's Work.

All of the foregoing is referred to as "Records" and shall be open for inspection and subject to audit and/or reproduction by the Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of:

- .1 Contractor compliance with Contract requirements
- .2 Compliance with District and State business ethics Statutes and regulations
- .3 Compliance with provisions for pricing change orders, invoices or claims submitted by the Contractor or any of his payees.

15.9.2 Other specific records subject to audit, by the Owner or his designee, will include any and all other sources of information that may, in the Auditor's judgment, have any bearing on or pertain to matters, rights, duties or obligations covered by the Contract Documents, State Statute or Regulations. Computerized data shall be provided in a format requested by the Owner.

15.9.3 During construction of the Work, and for five years after Final Completion, or longer if required by law, the Contractor, as required by A.R.S. § 35-2145, shall retain and shall require all Subcontractors to retain for inspection and audit, all books, accounts, reports, files and time cards, materials invoices, payrolls, and evidence of all other direct and indirect costs related to the bidding and performance of this Work. Upon request by the Owner, a legible copy or original or any or all such records shall be produced by the Contractor or his subcontractors or suppliers at the office of the Owner.

15.9.4 The Contractor shall require all payees receiving funds from this Work to comply with the provision of this Article by insertion of the requirements herein in their written agreements or purchase orders. Contractor shall fully cooperate and will cause all payees to cooperate fully in furnishing or making available to the Owner whenever requested in an expeditious manner any and all information, materials or data required by this Article.

15.9.5 The Owner's agent or its authorized representative shall have access to the Contractor's facilities and shall be allowed to interview current and former employees to discuss matters pertinent to the performance of this Contract, and shall have access to all necessary records, and shall be provided adequate and appropriate work space in order to conduct audits in compliance with this Article.

15.9.6 If an audit inspection or examination in accordance with this Article discloses overpricing or overcharges of any nature by the Contractor to the Owner, the adjustment or repayment shall be made within a reasonable amount of

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time, not to exceed 90 days, from presentation of Owner's findings to the Contractor. If the audit or examination finds overcharges or overpricing in excess of one-half of one percent (0.5%) of the total contract billings, the reasonable and actual cost of the audit shall be reimbursed to the Owner by the Contractor.

15.10 Legal Worker Requirements: As mandated by Arizona Revised Statutes § 41-4401, MCCCDC is prohibited from awarding a contract to any contractor who fails, or whose subcontractors fail, to comply with Arizona Revised Statutes §23-214-A, which requires that employers verify the employment eligibility of their employees through the Federal E-verify system. An "employer" is an independent contractor, a self-employed person, the State of Arizona or any of its political subdivisions, or any individual or type of organization that transacts business in the State of Arizona, that has a license issued by an agency in the State and that employs one or more employees in the State. (See A.R.S. §23-211-4.) Therefore, in signing or performing any contract for MCCCDC, the Contractor fully understands that:

- A. It warrants that both it and any subcontractors it may use comply with all federal immigration laws and regulations that relate to their employees and with A.R.S. § 23-214-A;
- B. Any breach of that warranty is material and is subject to penalties up to and including immediate termination of the contract; and
- C. MCCCDC or its designee is authorized by law to randomly inspect the records relating to an employee of the Contractor or any of its subcontractors who works on the contract to ensure compliance with the warranty made in Paragraph A above.

15.11 Tobacco free facilities. The Maricopa County Community College District is dedicated to providing a healthy, comfortable, and educationally productive environment for students, employees, and visitors. In order to promote a healthy learning and work environment, the Maricopa County Community College District will become a total smoke free and tobacco free environment, effective July 1, 2012. Smoking (including the use of "e-cigs") or using tobacco products anywhere within the District's property is strictly prohibited. This includes all indoor areas and outdoor areas, such as parking lots (including inside vehicles in the parking lots), sports fields and sidewalks, and includes construction sites under the Contractor's control. Contractor shall be responsible for advising its officers, employees, subcontractors, suppliers and any other parties (Project Personnel) who come onto District property that they may not smoke or use tobacco products anywhere on Owner's property. Contractor's failure to advise Project Personnel of the prohibition or failure to address violations of the prohibition will result in corrective action, which may include directing the removal of Project Personnel from the project. A consistent violation of the prohibition may result in a suspension of Contractor from competing for other District projects.

15.12 MISCELLANEOUS PROVISIONS

15.11.1 RECORD DRAWINGS

The Record Drawings and Specifications shall consist of a set of electronic files and set of subsequent reproducible drawings that update the original Drawings, and marked up specifications that indicate all field changes that were made to adapt to field conditions, changes resulting from Supplemental Instructions or Contract Change Orders, and all concealed and buried installation of piping, conduits and utilities services installed or changed as part of this Work. All buried and concealed items both inside and outside the facility shall be accurately located on the Record Drawings as to the depth and in relationship to not less than two permanent features, such as interior or exterior wall faces or corners. Buried utilities or existing utilities that were altered or removed as part of the Work shall be located and plotted on an electronic file by a professional utility location firm or civil engineer. The Record Drawings shall be clean and all changes, corrections and dimensions shall be made in a neat and legible manner in contrasting color or bubble indicating the changes. All markings made shall be in a manner that allows the reproduction to be clearly and easily read. All RFI's, ASI's, Change Orders, etc. that are referenced in the Record Drawings shall be attached or included in the Drawings; cross referencing alone to an unattached document is not acceptable. Completion and acceptance of Record Drawings and Specifications are a condition precedent to final payment. Failure to provide complete and accurate Record Drawings may result in a deduction to the Contract as described in Amendment Number 1 to this Contract.

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ARTICLE 16

EXISTING CONTRACT DOCUMENTS

The Contract Documents in existence at the time of execution of this Agreement are as follows:

<list and describe

Including quotes dated _____ pages

Total _____ pages

This Agreement is entered into as of the date entered in Article 1.

OWNER: _____

BY: **Richard W. Sauriol, CPPB**
Purchasing Manager

CONTRACTOR: _____

BY: _____

PRINT NAME: _____

PRINT TITLE: _____

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EXHIBIT A
PROJECT DESCRIPTION

**Detailed Project Description
And
Education Specification**

Dated _____
(*incorporated by reference*)

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EXHIBIT B
Owner Proposed Budget and Schedule

Date: _____

Owner: The Maricopa County Community College District

Project: _____

Location: _____

Source of Funds: _____

Owner Project Number: _____

Gross Sq. Ft.: _____

The not-to-exceed fixed sums established by the Owner for the design and construction of the Project is:

- a) Budget for design services and building construction including all required site and utility improvements \$
- b) Owner's design contingency fund _____% of Item (a) \$
- c) Owner's construction phase contingency fund to be included within the GMP \$
- d) Total Guaranteed Maximum Price (GMP), including design and construction, for the construction period indicated at time of Agreement (including all items that will become part of the GMP shown in Exhibit G) \$

- - - Balance of this Page left blank intentionally; Critical Date Schedule is shown on the following page - - -

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CRITICAL DATE SCHEDULE

The following tabulation reflects milestone completion dates to accomplish the scheduled completion of each line item. All dates are the latest acceptable finish dates for each activity.

Schedule

| | |
|--|---|
| Execute Owner-Design/Builder Agreement | |
| Programming | |
| District Review | |
| Schematic Design Submittal | |
| District Review* | |
| <Develop and Submit GMP, if not part of Original Agreement> | |
| Submit for Board Approval GMP | |
| Design Development Submittal | |
| District Review* | |
| <Develop and Submit GMP, if not part of Original Agreement <at <>% of Construction > | |
| Submit for Board Approval GMP | |
| Construction Document Submittal | |
| District Review* | |
| Early Construction Phase Start Date | |
| for <> | |
| Early Construction Phase Start Date | |
| for <> | |
| Receive Sub-Bids and Final Pricing | |
| Submit for Board Approval Notice to Proceed | |
| Notice to Proceed | |
| Substantial Completion | <> calendar days |
| <Data Room(s): | To be complete and ready for use 14 Days ahead of Substantial Completion |
| Final Completion | <> calendar days |
| Warranty Period | Two years, plus specific item or assemblies listed to be longer as required by the Contract Documents |

* District reviews may take place concurrently with the Design-Builder proceeding into the next phase of the Work.

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EXHIBIT C
DESIGN SUBMITTAL REQUIREMENTS AND MINIMUM STANDARDS

A. Minimum Design and Construction Standards documents included by reference

- MCCCC Part I: Administrative and General Design Guidelines
(http://www.maricopa.edu/facilitiesplanning/docs/PartI-MCCCC_Design_Guidelines.pdf)
- MCCCC Part II: Learning Space Design Guidelines
(http://www.maricopa.edu/facilitiesplanning/docs/PartII-Learning_Space_Design_Guidelines.pdf)
- MCCCC Part III: Operations and Maintenance Guidelines
(http://www.maricopa.edu/facilitiesplanning/docs/PartIII-MCCCC_Ops_and_Maint_Guidelines.pdf)
- MCCCC Part IV: Information Technology Standards
(http://www.maricopa.edu/facilitiesplanning/docs/PartIV-IT_Standards.pdf)

B. Applicable laws, statutes and codes

Per Arizona Revised Statutes Section 34-462, community college buildings are exempt from local building codes pursuant to section 34-461, subsection D. Per A.R.S 34-461, "Public buildings shall be constructed in compliance with the state fire code unless a fire code has been adopted by the city, town, county or fire district in which the building is located. Public buildings shall be constructed in compliance with applicable building, plumbing, electrical, fire prevention and mechanical codes adopted by the city, town, county or fire district in which the building is located. The owner of the public building is subject to the same fees required of other persons. Public buildings are subject to inspection during construction pursuant to these codes to determine compliance. ARS 34-461 (D) states, "Subsections A and B do not apply to state owned buildings except for the application of the fire code in effect where a state owned building is located. The Contractor shall confirm if the city in which the Project is located has assumed fire code review for the Work.

Work at Scottsdale Community College is under the code review and permit authority of the Salt River Pima-Maricopa Indian Community for all codes for the entire on-site and off-site work, including design reviews.

All off-site work, regardless of the municipality in which the Work is located, is under the review and permitting jurisdiction of that municipality, including all fees, permits, etc.

As a requirement for this Work, the Project's design and construction shall comply with current applicable local and State laws, statutes, ordinances, rules, regulations, building and construction codes (as adopted and amended by the municipality in which the Project is located), and with generally accepted design and engineering standards. When no local or State codes apply, the current edition of the International Building, Plumbing and Mechanical Codes, National Electrical Code, applicable State and Federal safety and health laws, State of Arizona Fire Code, and National Fire Protection Association Standards in effect on the date this Agreement is executed shall apply. **The Contractor must confirm the applicable codes and determine the authority (ies) having jurisdiction prior to beginning the work.** Where the requirements of similar codes are in conflict, the most stringent code requirement for the particular situation shall govern. If the local municipal or governing code authority has assumed Fire Code review and jurisdiction from the State Fire Marshal, the local authority's Fire Code shall be used and the project shall be submitted to the local authority for Fire Code review in place of the State Fire Marshal's office.

At the Owner's option, a private plan review for all aspects of Work may be provided through a consultant paid directly through the Owner.

C. Accessibility

In designing the Project and preparing the design and providing the construction, the Design-Builder shall use due care and shall comply with all requirements of Arizona Revised Statutes Title 34, Chapter 4, *Structure of Buildings*, relating to structure of buildings, Section 504 of the Rehabilitation Act of 1973, and Titles II, III and IV of the Federal Americans with Disabilities Act as they relate to physical access and use of this proposed facility. Unless otherwise indicated in this Agreement, the Contractor shall have no obligation to provide design improvements to the path of travel serving this work nor to areas beyond the work of this Agreement. Where the requirements of similar codes are in conflict, the most stringent code requirement for the particular situation shall govern.

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D. Solar Energy Evaluation

If the Project is for new construction over six thousand square feet, the Contractor shall comply with all requirements of A.R.S. Section 34-452 relating to solar energy. Included will be (a) evaluation of proper site orientation (b) utilization of active and passive solar energy systems for space heating (c) utilization of solar water heating and (d) utilization of solar day lighting devices as defined in A.R.S. Section 44-1761. Life cycle costing shall be used to evaluate all solar energy and energy conservation design, equipment and materials that are considered. Solar energy and energy conservation design, equipment and materials shall be used if the simple payback is eight years or less. If the useful life of a product is less than eight years, the simple payback shall be equal to or less than the useful life of the product. A written evaluation whether the utilization of solar devices would be cost effective is required by this Agreement. If a detailed study for solar energy use is required, the cost for the study will be considered an additional reimbursable expense.

E. Energy Conservation, Sustainability and Environmental Responsiveness Requirements

Per District Design Guidelines, all new construction shall use principals of energy efficiency and sustainability to the fullest extent possible, consistent with budget constraints and programmatic requirements. While not seeking LEED or other national certifications at this time, the District seeks to evaluate these programs, develop a reasonable response and self-certify to LEED, Labs21 or other appropriate criteria. All designs **shall** incorporate the energy conservation standards required by A.R.S. Section 34-451 shall comply with all requirements of **ASHRAE/IESNA 90.1** (most current edition) Energy Standards, including all issued amendments and updates. A written summary of compliance with the ASHRAE Standard effective shall be deemed a **BASIC SERVICE**. If a detailed study is required, the cost for the study will be considered a reimbursable expense.

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EXHIBIT D

Minimum Submittal Requirements Prior to Notice to Proceed for Construction

Where fast track or phased construction is used, the elements shown below related to that portion of the construction must be completed before Notice to Proceed will be issued for that portion of the Work.

GENERAL:

- NO building appearance sketches or elevations, suggested or sample finish materials, equipment or furnishings shall be shown to user groups or campus administration without (a) prior review by the Facilities Planning project manager and (b) without assurance by the Contractor that the appearance or item(s) proposed can be furnished as presented within the given budget.**
- For submittal at the end of each stage, the Design-Builder shall supply copies of all materials, including a material sample board, per the requirements noted in Paragraphs 3.1.4, 3.1.5., 3.1.6, and 3.3.1.14.
- Contractor shall receive written authorization from the Owner's Representative shown in Paragraph 8.4.1.2 before proceeding to the each successive phase.
- All architectural/mechanical/plumbing/electrical floor plans shall be a scale 1/8" = 1'-0" or greater and all civil engineering, landscape and site plans shall be at a scale of 1" = 30'-0" or greater.
- Contractor shall take and distribute minutes for all meetings.
- Clearly differentiate between new and existing construction; visit the site; examine existing documents; request that tests and observation openings at the site and in existing structures be made for determining design and cost impacts.
- Attend monthly building committee meetings during Design and Construction Document Phase. Attend weekly **(CONFIRM)** meetings during Pre-Construction phases.
- Attend weekly site meeting during Construction Phase

MINIMUM REQUIREMENTS FOR PROGRAM PHASE:

In general, the Programming Phase will address the goals or mission statement, project context, functional program, site/access characteristics, and project phasing, as applicable. Based on in-depth discussion with all identified Project users, college administrative and District staff, and the Contractor shall expand and redefine the Educational Specification to fully explain and document the following:

- Code analysis and any special code issues from all disciplines, including a list of all applicable review and permitting authorities.
- Review the Education Specifications and report to the user group any deviations from the information or requirements of those documents, and resolve and differences and discrepancies to the satisfaction of the Owner.
- Develop and detail goals and priorities of the college, users and Facilities Planning regarding the Project.
- Determine and tabulate size, use, occupancy, special features or systems, and furnishings/equipment requirements of all spaces, as developed with the Owner, including general building or programmatic supplemental or support areas not covered in Educational Specifications for non-assignable spaces such as mechanical, electrical, storage, circulation, toilets, janitorial, etc.

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- Determine and show the required relationships of spaces to other spaces and/or between buildings, including proximity diagrams of relationships between activities and individual rooms (for each building).
- Determine and list general furnishings, fixed and major movable equipment and audio/visual equipment required for each programmed space.
- Determine and describe pedestrian and vehicle traffic/circulation requirements within, between and to the buildings, including building service and fire access requirements.
- Tabulation of all net assignable areas
- Calculation of probable gross building area(s)
- Determine and describe any special environmental requirements for the spaces
- Investigate and determine approximate utility services for all spaces and investigations into available utilities to the building.
- Determine and describe any special electrical and special systems requirements for the spaces
- Determine general audio/visual, telecommunications and data requirements within and between buildings.
- All of the above shall be presented in a written PROGRAM PHASE REPORT.**

MINIMUM REQUIREMENTS FOR DESIGN PRIOR TO NOTICE TO PROCEED FOR CONSTRUCTION:

- Building code analysis, including NASF and GSF calculations of conditioned space
- Narrative of design rationale, proposed construction, code analysis, structural, plumbing, mechanical and electrical systems
- Outline specifications per CSI divisions, including material selections and cut sheets of proposed equipment or assemblies
- For new buildings, provide a brief written evaluation of solar energy features per the requirements of Exhibit C, including energy life cycle costing shall be used to evaluate all solar energy and energy conservation design, equipment and materials that are considered.
- Applying the goals and approaches developed during Programming and using the appropriate United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) "scorecard", Lab21 and other recognized programs, provide an accounting of the estimated potential point accumulation that this project might receive, as well as additional potential points or other appropriate criteria. For each proposed or possible LEED point, provide a short explanation or description of how that point would be achieved. The District's intent is to self-certify for these programs, achieving LEED Certified to LEED Silver equivalency. Unless specifically stated in this Agreement, the District will not be seeking actual LEED or other certification for this project.
- Preliminary list and description of proposed pricing alternates and estimated cost
- Proposed cash allowances.
- Identify all materials in the project area thought or suspected to contain asbestos or other hazardous materials. The District will provide hazardous materials testing and abatement through separate contracts.
- Coordinate the design and Construction Documents of the architectural, structural, plumbing, HVAC and electrical work so that interference among and within the trades' work can be avoided. For example, coordinate

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projection screens vs. emergency/night lights or wall air supply grilles, power outlets, special systems or light switches vs. bulletin and white boards, thermostats vs. furniture, electrical and data outlets vs. furniture or casework, data or power outlets vs. casework, etc. NO electrical or data outlets are to be located within cabinets without specific approval of, or direction by, the Owner.

- Review the Education Specifications, programming versus the design and report to the user group any deviations from the information or requirements of those documents, and resolve and differences and discrepancies to the satisfaction of the Owner.
- Contractor and architect/engineers to meet with Owner and users to review proposed building systems, products, approaches, constructability, etc. and evaluate alternatives as needed to obtain the best product possible to meet the Owner's needs and budget.

CIVIL

- Site Survey
- Civil Plan showing:
 - a. Major existing features, existing and proposed utilities including routings, sizes and material of new utility runs, drainage and initial finish floor elevation, and any required off-site developments.
 - b. Proposed contours/grading, including drainage and retention areas and drywells. Show preliminary retention calculations on the Drawings
 - c. Paving, sidewalk, curb, fence, parking, and other site improvements showing location and overall dimensions
 - d. Proposed easements or rights of way required.
- Off-Site Requirements
Design, preliminary specifications and details required for any off-site improvements.
- Civil calculations shown on the final drawings, including retention area calculations, etc.

LANDSCAPE

- Landscape Plan
 - a. Preliminary planting plan
 - b. Plant list (*note: review vs. SRPMIC approved plant list for SCC projects*)
 - c. Description of proposed landscape irrigation system and location of main lines, valves and timer

ARCHITECTURAL

- Identify and show any "fast track" construction, multiple bid packages or any phasing of the work that may be necessary or will be proposed
- Building Code review shown on the final drawings, including listing of applicable codes; construction type(s); occupancy (ies), including mixed occupancy calculation; required and actual separations; set-backs; allowed and actual area, including applied adjustments and increases allowed by the code; net and gross square footage for each building, exiting calculations and requirements; plumbing fixture count calculation, etc.
- Site Plan

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- a. Preliminary architectural site plan showing paving, sidewalk, curb, fence, parking, and other site improvements along with other site improvements not shown on the Civil site plan.
 - b. While not subject to local zoning ordinances (except at Scottsdale- SRPMIC), the site design, layout, landscaping, parking, set backs, etc., should conform with the spirit, if not the letter, of the local zoning and development ordinances. The Design-Builder shall review and obtain specific approval from the Owner for any proposed deviation in the design from these ordinances.
- Floor Plans (including cabinetry and furniture layouts within occupied spaces):
- a. New work, all floor levels, including showing locations of all fire, smoke and acoustic rated partitions
 - b. Remodeled areas of existing structures, if any, including demolition
 - c. Existing building drawings for remodeled areas
 - d. Dimensioned plans, including proposed room names, numbers and room area. Owner will provide District standard for room numbering and confirm numbers to remain through balance of the Project.
 - e. 1/8" scale furniture and movable equipment layouts, for ALL spaces, using the actual sizes of proposed furnishings and equipment, and required clearance between or around them., including OFOI and OFCI designations
 - f. Preliminary wall type schedule and sections/details
- Reflected Ceiling Plan
- Roof Plan
- Exterior elevations of all significant major exterior planes
- Diagrammatic building sections
- Typical wall sections to show materials, relationships, construction intent
- Typical key architectural details
- Basic interior elevations of major rooms, restrooms, casework etc.
- Room material finish schedule including sample board showing all proposed exterior and interior materials, colors, etc.
- Preliminary door and window details and schedules. Include elevations, sizes, typical head/sill/jamb/mullion, hardware groups and resulting preliminary hardware schedule. Include suggested brands, model, etc. for preliminary hardware selection
- Furniture, fixed and movable equipment schedules, showing locations, service requirements, **<including audio/visual systems,** including all utilities services and sizes required, indicating OFOI/OFCI/CFCI designation.
- Science or occupational fixture and equipment drawings showing enlarged scale plans, elevations and sections, casework, fixtures and preliminary schedules and other details as applicable.**
- Kitchen equipment drawings including preliminary keyed equipment schedules and plans for layout, plumbing, mechanical and electrical location and coordination drawings.**
- Selection of artist for public art and Schematic level development of public art concepts and locations**

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STRUCTURAL

- Soil boring data and geo-technical recommendations.
- Dimensioned structural foundation and framing plan(s) showing proposed bay and framing arrangements, preliminary sizes and materials.
 - a. Typical interior framing details, showing intended materials
 - b. Typical exterior framing detail.
 - c. Typical column, beam, wall, truss and foundation schedule.
 - d. Vibration Isolation Review.
 - e. Structural section(s).
 - f. Fireproofing location including U.L. or ICC/ES designation.
 - g. Listing of design live and dead loads tabulated for all floors, areas, and roofs
- Sealed set of all final structural calculations submitted at the completion of Construction Documents.

MECHANICAL

- Preliminary code review and summary, including fresh air make-up calculations for HVAC; pressure loss calculations and fixture counts for plumbing
- Preliminary plumbing plans and drawings, including:
 - a. Fixture schedule and locations.
 - b. Equipment schedule and locations.
 - c. Waste and vent riser diagram with types, locations, key sizes.
 - d. Water piping for sizes for pipes larger than 3/4", including location/routing, main and fixture group isolation valves, etc.
 - e. Roof drainage system. ***Overflow drains shall "daylight", not tie into a common piped system with the primary roof drains either above or below ground.***
 - f. Fire protection systems, including fire riser and Siamese connection locations. Make specific modifications to N.F.P.A.13 as required by the Owner's property insurer.
- Plumbing calculations shown on the final drawings, including water and gas pressure loss, fixture loads for water supply and sewage, etc.
- Preliminary mechanical plans and drawings, including:
 - a. **One-line**-HVAC duct and equipment layouts, including silencers or other specialized accessories. Mechanical plans shall show all fire, smoke or acoustic rated partitions to assure proper coordination and design of HVAC systems, wall penetrations, etc. **The HVAC system shall contain continuous and separate air flow paths for supply, return, fresh air make-up and relief air flows, which also maintain the acoustic rating of any partitions that the air flows/ductwork penetrates. Equipment such as VAV boxes or fan sections shall be located in corridors or other public areas to the greatest extent possible, to reduce equipment and air flow noise in instructional or office areas, as well as making servicing and maintenance**

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[easier.](#)

- b. Mechanical piping for chilled, condenser, hot water, steam, and condensate piping systems, including valves, line sizes and locations
- c. Equipment room layouts (showing major equipment to scale only)
- d. Preliminary equipment schedule
- e. Typical ductwork or equipment details

[f. Preliminary make-up air calculations](#)

- Description of energy system management controls and proposed sequences of operations. Include meetings with District's EMS vendor and District's Facility Project Managers to develop this information
- Mechanical system calculations shown on the final drawings, including fresh air make-up, etc.

COMMON MECHANICAL/PLUMBING/ELECTRICAL

- Where a significant amount of furniture, fixtures or equipment that requires mechanical, plumbing or electrical connections will be included in the Project, provide a schedule that includes a list of items keyed to the similar architectural schedule and plan. Include the following on the schedule: keyed list of items, whether new or existing/relocated, and who furnishes and who installs the item (OFICI, OFOI).
- An annual energy consumption analysis and develop a summary of the usage of electrical (Kwh/yr.), chilled water (Ton Hrs./yr.), and steam (lbs./yr.) used under normal building operation. Provide a hard copy printout as back-up.
- Summary report, calculations and compliance statement regarding building mechanical system design with ASHRAE/IESNA Standard 90.1- 2004.

ELECTRICAL

- Preliminary code review and load calculations
- Power, lighting and special systems plans and details including:
 - a. All power, data/communications and special systems outlet locations. Include all riser/conduit sizes for all empty conduit systems provided for telecom, data, audio/visual, security or other special systems pathways.
 - b. Lighting, including preliminary fixture schedule, motion sensors and switch locations with identification. Provide switches for all interior fixtures. All exterior fixtures shall run through timers, relays or switches. (Note: no lighting shall be controlled only through operation of circuit breakers; local switching shall be provided for all lighting, including those areas with motion sensors, timers, etc.)
 - c. Electrical panels and electrical equipment locations
- One-line electrical distribution diagrams major distribution/ entrance section/motor control center and other electrical gear elevations and calculations
- Preliminary electrical panel schedules
- Preliminary information and design of:
 - a. Emergency generator size, locations, as required.

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- b. Uninterruptible power supply equipment size, locations if required.
- c. Grounding - standard details
- d. Lightening protection as necessary
- Preliminary one-line distribution and riser diagrams and basic equipment for fire alarm, telecommunication, voice, security, data, video ≤ audio/visual and security systems, and riser diagrams.
- Electrical system calculations shown on the final drawings, including load calculations for each panel, distribution section, motor control panel and major piece of electrical gear, bracing calculations, etc.

EXHIBIT E
Construction Close Out Requirements

A. Submit the following and per the various sections of the Contract Documents:

1. Project Record Documents

Provide one reproducible set and two CD-ROMs of the electronic As-Built drawings and one complete set of project Specifications noting all changes from the original document. Prepare Project Record Drawings in AutoCad format compatible with Owner CAD/D using Owner layering standards, with each drawing clearly marked with "As-Built Document". All external CAD/D file references (XREF's, etc.) required for the drawings shall be included in the electronic files and shall be verified as present, sufficient and effort free prior to transmittal to the Owner. Bind all XREF's and other insert items into the final drawing so that each sheet of drawings can be electronically transmitted as a complete, stand-alone document. For Record Specifications, mark changes made by alterations or clarifications during construction, change order, addenda items, or other matters not originally specified. Indicate the actual selections of the manufacturer or option when more than one choice is listed.

After review of the submitted set and all required corrections, provide (i) a complete set of reproducible mylars from the final AutoCAD drawings and (ii) two edge bound blueline or blackline sets reproduced from these mylars. (iii) two CD-ROM's of the final drawings and specifications, along with electronic images/files of any submittals provided for the project.

- 2. **Extra materials.** Provide receipts signed by the College Facility Manger for all extra materials or other items called out in sections of the Specifications to be turned over to the Owner. Unless a signed receipt is provided, another set of materials or items shall be provided.
- 3. **Final Listing of Architectural Finishes.** For all architectural finishes provided in the Work, including those applied to a factory manufactured and finished item, provide the following:
 - a. Manufacturer
 - b. Local supplier(s)
 - c. Model(s), line(s), pattern(s), finish/sheen/luster (flat, semi-gloss, etc.), finish coat vehicle (latex, acrylic, alkyd, varnish, epoxy, etc.), and/or color(s) used. Paint colors shall include the manufacturer's pigment/color formulation for each color in addition to the name.
- 4. **Record Shop Drawings, Samples and Submittals.** Maintain approved Shop Drawings, samples and submittals as record documents. Legibly annotate appropriate drawings to record changes made after review. Include all Shop Drawings provided in CAD/D or graphic file format. **Provide one full set of the final and approved shop drawings, submittals and samples to the Owner at the close-out of the project.**
- 5. **Building Official's Certificate of Occupancy.** Certificate of Occupancy must be received in time to allow Substantial Completion and Occupancy by dates required in the Agreement. Include original and copies of Certificates and Final Approvals from code authorities in close out documentation.

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6. Final CAD/D Record Drawings

The final Record Drawings consist of a set of electronic files and set of subsequent reproducible drawings that update the original Drawings indicating all field changes that were made to adapt to field conditions, changes resulting from Supplemental Instructions or Contract Change Orders, and all concealed and buried installation of piping, conduits and utilities services installed or changed as part of this Work. All buried and concealed items both inside and outside the facility shall be accurately located on the final Record Drawings as to the depth and in relationship to not less than two permanent features, such as interior or exterior wall faces or corners.

Also include hard copies and electronic copies of all systems designed by subcontractors, such as fire sprinklers or fire alarm systems.

The Record Drawings shall be clean and all changes, corrections and dimensions shall be made in a neat and legible manner in contrasting color or bubble indicating the changes. All RFI's, ASI's, Change Orders, etc. that are referenced in the final Record Drawings shall be attached or included in the Drawings' electronic files; cross referencing alone to an unattached document or binder is not acceptable. CAD/D drawings shall be in Auto-CAD format; confirm which release with the Owner.

7. Utilities Location

Retain the Project's civil engineer or professional utilities locating firm to identify, locate and record the actual installed locations of all new and modified site utilities on the project, beginning at the outside face of the building. This firm shall produce an electronic file in AutoCad format (confirm version with Owner) that can be inserted into existing electronic documents showing utilities. Utilities may be located either relative to a permanent site feature that existed prior to, and remain after, the construction associated with this Project, or be located relative to the new work. If utilities are shown relative to the new project, the new building shall also be accurately located in this CAD/D file by at least two corners versus two other permanent site features that existed prior to this Work.

All non-metallic buried utilities shall be provided with buried traceable warning tapes or tracer wires, with wire continuity confirmed (a) prior to backfill (b) immediately after backfill and (c) at completion of construction.

8. Operations and Maintenance Data

The Contractor remains liable for damage to Project systems or finishes which may have been avoided by proper instruction and information until training and instruction has been completed and complete Operations and Maintenance manuals have been received by the Owner.

8.1 Manuals

Prepare manuals covering items in the Work and Specifications in durable white plastic binders approximately 8 1/2 by 11 inches in size and with at least the following. Submit **four (4)** copies in approved final form prior to final inspection and acceptance.

1. Identification on, or readable through, the front covers stating general nature of the manual.
2. Neatly typewritten index near the front of the manual, furnishing immediate information as to location in the manual of all data.
3. Copy of all guarantees and warranties issued.
4. Sample of proposed submittal to be reviewed and accepted by the prior to its submission.

8.2 Maintenance and Operation Instructions

1. Procure or prepare and include in manuals, operating and/or maintenance instruction for all equipment and/or materials that will require any adjustments, servicing, or attention for its proper operation or use.
2. These instructions shall set forth all the information necessary for the Owner to operate and make full and efficient use and perform such maintenance and servicing as would ordinarily be done by the Owner or his personnel.

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3. Write instructions in simple, non-technical language when possible, with sufficient diagrams and explanation where necessary to be readily understandable by average layman. Possible hazards shall be particularly pointed out with instructions cautioning against mistakes that might result in damage or danger to equipment, building or personnel.

8.3 Extraneous Data

Where contents of manuals include manufacturer's catalog pages, clearly indicate the precise items included in this installation and delete or otherwise clearly indicate all manufacturers' data with which this installation is not concerned.

8.4 Manual Content

Include a neatly typewritten table of contents for each volume arranged in systematic order, listing:

1. Contractor, name of responsible principal, address and telephone number.
2. Each product including name, address and telephone number of:
 - a. Subcontractor or installer.
 - b. Recommended maintenance contractor.
 - c. Local source for replacement parts.
3. Product name and other identifying symbols as set forth in Contract Documents.
4. Product Data
 - a. Include only those sheets which are pertinent to specific product, including:
 - b. Annotate each sheet to:
 - 1) Clearly identify specific product or part installed.
 - 2) Clearly identify data applicable to installation.
 - 3) Delete references to inapplicable data.
5. Drawings
 - a. Supplement product data with drawings where necessary to clearly illustrate:
 - 1) Relations of component parts.
 - 2) Control of flow diagrams.
 - b. Do not use "Project Record Documents" as maintenance drawings.
6. Written Test
 - a. Provide where necessary to supplement Product Data and drawings.
 - b. Organize in consistent format under separate headings for different procedures.
 - c. Provide logical sequence of instructions for each procedure.
7. Warranties, Bonds, and Maintenance Contracts
Provide copies of each of the following:
 - a. **Proper procedures in event of failure.**
 - b. **Instances that might affect validity of warranties, bonds or contracts.**
8. List of all extra materials provided to the Owner under the specific portion of the Specifications

8.5 Manual for Architectural Materials, Finishes and Equipment

Include the following manufacturer's data:

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1. Catalog number, size, composition.
2. Color and texture designations.
3. Required reordering information.
4. Recommended cleaning materials and methods.
5. Cautions against detrimental cleaning materials and methods.
6. Recommended cleaning and maintenance schedule

8.6 Manual for Mechanical Equipment and Systems

Include the following manufacturer's data and information for Mechanical equipment specified in Division 15.:

1. Description of unit and component parts including:
 - a. Function, normal operating characteristics, and limiting conditions.
 - b. Performance curves, engineering data and tests.
 - c. Complete nomenclature and commercial number of replaceable parts.
2. Operating procedures including:
 - a. Start-up, break-in routine, and normal operating instructions.
 - b. Regulations, control, stopping, shut-down and emergency instructions.
 - c. Summer and winter operating instructions.
 - d. Special operating instructions.
3. Maintenance procedures including:
 - a. Routine operations.
 - b. Trouble-shooting guide.
 - c. Disassembly, repair and reassembly.
 - d. Alignment, adjusting and checking.
 - e. Servicing and lubricating schedule, including recommended lubrications.
4. Manufacturer's printed operating and maintenance instructions.
5. Control systems operations sequences.
6. Parts list, illustrations, assembly drawings and diagrams necessary for maintenance, including:
 - a. Life expectancy of parts subject to wear.
 - b. Items recommended to be stocked as spare parts.
7. As-installed control systems diagrams.
8. Color-code legend, if any.
9. Valve tag number chart, with location and function of each valve.

8.7 Manual for Electrical Equipment and Systems

Include the following manufacturer's data and information for electrical equipment specified in Division 15 and 16.:

1. Description of unit and component parts including:
 - a. Function, normal operating characteristics and limiting conditions.
 - b. Performance curve, engineering data and tests.
 - c. Complete nomenclature and commercial number of replaceable parts.
2. Panelboard circuit directories indicating:

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- a. Electrical service.
 - b. Controls.
 - c. Communications, if any.
3. As-installed wiring color-code legend, if any.
 4. Operating procedures, including:
 - a. Routine and normal operating instructions.
 - b. Sequences required.
 - c. Special operating instructions.
 5. Maintenance procedures, including:
 - a. Routine operations.
 - b. Trouble-shooting guide.
 - c. Disassembly, repair and reassembly.
 - d. Adjustment and checking.
 6. Manufacturer's printed operating and maintenance instructions.
 7. Parts list, including current prices, and recommend spare parts to be maintained in storage.

8.8 Manual of Unit and Component Parts

Including:

1. Description of unit and component parts including:
 - a. Function, normal operating characteristics and limiting conditions.
 - b. Performance curve, engineering data and tests.
 - c. Complete nomenclature and commercial number of replaceable parts.
2. Panel board circuit directories indicating:
 - a. Electrical service.
 - b. Controls.
 - c. Communications, if any.
3. As-installed wiring color-code legend, if any.
4. Operating procedure including:
 - a. Routine and normal operating instructions.
 - b. Sequences required.
 - c. Special operating instructions.
5. Maintenance procedures, including:
 - a. Routine operations.
 - b. Trouble-shooting guide.
 - c. Disassembly, repair and re-assembly.
 - d. Adjustment and checking.
6. Manufacturer's printed operating and maintenance instructions.
7. Parts list, including current prices, and recommended spare parts to be maintained in storage.

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8.9 Additional Data

Prepare and include the following:

1. Additional data when need becomes apparent during instruction of the Owner's personnel.
2. Additional data specified in other Sections of Specifications to be included.

9. Instruction of Owner's Personnel

Prior to final acceptance and payment, instruct Owner's personnel in necessary operation, adjustment, and maintenance of products, equipment and systems. Operating and maintenance manual shall constitute basis of instruction. Review manual contents with Owner's personnel in detail to explain all aspects of operations and maintenance. A listing of all personnel receiving instructions, complete with signature verifying same, dates of instruction, and other pertinent data shall be delivered to the Project Manager upon completion of instruction session(s).

B. Final Transmittal. Accompany final transmittal of all Close-Out materials to the Owner with a transmittal letter listing:

1. Date
2. Project title and number
3. Contractor's name and address
4. Title and number of each record document
5. Certification that each document as submitted is completed and accurate.
6. Signature of Contractor, or his authorized representative.

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EXHIBIT G – GMP PROPOSAL

SAMPLE ONLY OF FORMAT; CONTENT MAY BE ALTERED OR EXPANDED BY THE CONTRACTOR WITH THE OWNER'S PERMISSION

UPDATE TO MOST CURRENT VERSION IN CMAR AGREEMENT

GUARANTEED MAXIMUM PRICE PROPOSAL FOR

<or AMENDMENT NO. <

TO

THE DESIGN-BUILD AGREEMENT BETWEEN OWNER and CONTRACTOR

RFP Number _____ dated _____

Pursuant to Paragraph 3.2 of the Agreement dated _____ between the

Maricopa County Community College District ("Owner"), and

_____ ("Contractor"),

for the Project, _____,

GUARANTEED MAXIMUM PRICE (GMP)

The Owner and the Contractor desire to establish a GUARANTEED MAXIMUM PRICE (GMP) for the Work. Therefore, the Owner and the Contractor agree as follows.

PROJECT GMP PROPOSAL SUMMARY SHEET

Table with columns for Professional Services, Construction, and Grand Total Guaranteed Maximum Price. Rows include items like Professional architectural services, Construction Administration, Reimbursable Costs, Cost of the Construction, and various contingencies.

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Formulas:

1. $Total\ GMP = A+B+C+D+E + F + G + H + I + J.$
2. Rates (Percentages) are calculated by dividing each amount by D, such as G/D, H/D, etc.

The Contractor's GMP for the Work, including the Cost of the Work as defined in Article 8 and the Contractor's Fee as set forth above is

_____ dollars (\$ _____).

The GMP is for the performance of the Work in accordance with the documents and submittals listed below which are part of the Agreement.

| | | |
|---------------------|---|--------------------|
| EXHIBIT G.1 | List of documents, drawings and specifications used to prepare the GMP, dated _____, including RFP # _____ | _____ pages |
| EXHIBIT G.2 | List of Allowances, dated _____ | _____ pages |
| EXHIBIT G.3 | List of Clarifications and Assumptions, dated _____ | _____ pages |
| EXHIBIT G.4 | List of Unit Prices, dated _____ | _____ pages |
| EXHIBIT G.5 | A list of the specific exclusions of work, costs, or other items that are not contained within the GMP, dated _____ | _____ pages |
| EXHIBIT G.6 | Schedule of Alternate Prices, dated _____ | _____ pages |
| EXHIBIT G.7 | Statement of Additional Services, dated _____ | _____ pages |
| EXHIBIT G.8 | Professional Services Costs spread sheet, dated _____ | _____ pages |
| EXHIBIT G.9 | Estimated Reimbursable Costs, dated _____ | _____ pages |
| EXHIBIT G.10 | Schedule of Values, dated _____ | _____ pages |
| EXHIBIT G.11 | Project Schedule for the Work, dated _____ | _____ pages |
| | TOTAL | _____ PAGES |

DATE OF SUBSTANTIAL COMPLETION

The date of Substantial Completion of the Work shall be: _____.

The liquidated damages incurred by the Owner due to the Contractor's failure to complete the Work within the Contract Time, as defined above under Article 6 shall be as follows for each consecutive day beyond the Contract Time (Sundays and holidays included) for which the Contractor shall fail to complete the Work.

| | |
|------------------------|-------------------------|
| Substantial Completion | \$ <input type="text"/> |
| Final Completion | \$ <input type="text"/> |


Because the District is further damaged in their ability to properly operate and maintain their new Work due to late or incomplete Owner training, close out documents and as-constructed drawings and specifications, the following additional damages shall be deducted for each calendar day past 30 calendar days following the date of Substantial Completion that these items remain incomplete or absent:

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Close-out Completion \$ 50.00

Items that remain incomplete at final contract close out shall result in a deduction of up to 1% of the subcontract line value per the Schedule of Values. Only the Director of Facilities Planning and Development may waive collection of the Close-Out damages.

PROPOSAL ACCEPTANCE

This GMP proposal must be accepted by the Owner no later than _____  _____ .

This Amendment is entered into as of _____

OWNER

CONTRACTOR

Maricopa County Community College District

CONFIRM WHICH ONE:

Margaret McConnell

Assistant General Counsel

<

Director, Strategic Business Services

Title: _____

Signature: _____

Signature: _____