



University of
Kentucky[®]
Procurement Services

Request for Proposal

UK-2377-24

Proposal Due Date – 09/19/2023

Improve UK Memorial Coliseum
Wood Athletic Flooring

Project# 2604.0



REQUEST FOR PROPOSAL (RFP)

ATTENTION: This is not an order. Read all instructions, terms and conditions carefully.

PROPOSAL NO.:	UK-2377-24	RETURN ORIGINAL COPY OF PROPOSAL TO:
Issue Date:	08/23/2023	UNIVERSITY OF KENTUCKY
Title:	Improve Memorial Coliseum Wood Athletic Flooring	PROCUREMENT SERVICES
Purchasing Officer:	Ken Scott	411 S LIMESTONE
Phone/Email:	859.257.9102/kenneth.scott@uky.edu	ROOM 322 PETERSON SERVICE BLDG.
		LEXINGTON, KY 40506-0005

IMPORTANT: PROPOSALS MUST BE RECEIVED BY: 09/19/2023 3 P.M. LEXINGTON, KY TIME.

NOTICE OF REQUIREMENTS

1. The University's General Terms and Conditions and Instructions to Bidders, viewable at www.uky.edu/Purchasing/terms.htm, apply to this RFP. When the RFP includes construction services, the University's General Conditions for Construction and Instructions to Bidders, viewable at www.uky.edu/Purchasing/ccphome.htm, apply to the RFP.
2. Contracts resulting from this RFP must be governed by and in accordance with the laws of the Commonwealth of Kentucky.
3. Any agreement or collusion among offerors or prospective offerors, which restrains, tends to restrain, or is reasonably calculated to restrain competition by agreement to bid at a fixed price or to refrain from offering, or otherwise, is prohibited.
4. Any person who violates any provisions of KRS 45A.325 shall be guilty of a felony and shall be punished by a fine of not less than five thousand dollars nor more than ten thousand dollars, or be imprisoned not less than one year nor more than five years, or both such fine and imprisonment. Any firm, corporation, or association who violates any of the provisions of KRS 45A.325 shall, upon conviction, be fined not less than ten thousand dollars or more than twenty thousand dollars.

AUTHENTICATION OF BID AND STATEMENT OF NON-COLLUSION AND NON-CONFLICT OF INTEREST

I hereby swear (or affirm) under the penalty for false swearing as provided by KRS 523.040:

1. That I am the offeror (if the offeror is an individual), a partner, (if the offeror is a partnership), or an officer or employee of the bidding corporation having authority to sign on its behalf (if the offeror is a corporation);
2. That the attached proposal has been arrived at by the offeror independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other Contractor of materials, supplies, equipment or services described in the RFP, designed to limit independent bidding or competition;
3. That the contents of the proposal have not been communicated by the offeror or its employees or agents to any person not an employee or agent of the offeror or its surety on any bond furnished with the proposal and will not be communicated to any such person prior to the official closing of the RFP;
4. That the offeror is legally entitled to enter into contracts with the University of Kentucky and is not in violation of any prohibited conflict of interest, including, but not limited to, those prohibited by the provisions of KRS 45A.330 to .340, and 164.390;
5. That the offeror, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sale and use tax imposed by Chapter 139 to the extent required by Kentucky law and will remain registered for the duration of any contract award;
6. That I have fully informed myself regarding the accuracy of the statement made above.

SWORN STATEMENT OF COMPLIANCE WITH CAMPAIGN FINANCE LAWS

In accordance with KRS 45A.110 (2), the undersigned hereby swears under penalty of perjury that he/she has not knowingly violated any provision of the campaign finance laws of the Commonwealth of Kentucky and that the award of a contract to a bidder will not violate any provision of the campaign finance laws of the Commonwealth of Kentucky.

CONTRACTOR REPORT OF PRIOR VIOLATIONS OF KRS CHAPTERS 136, 139, 141, 337, 338, 341 & 342

The contractor by signing and submitting a proposal agrees as required by 45A.485 to submit final determinations of any violations of the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that have occurred in the previous five (5) years prior to the award of a contract and agrees to remain in continuous compliance with the provisions of the statutes during the duration of any contract that may be established. Final determinations of violations of these statutes must be provided to the University by the successful contractor prior to the award of a contract.

CERTIFICATION OF NON-SEGREGATED FACILITIES

The contractor, by submitting a proposal, certifies that he/she is in compliance with the Code of Federal Regulations, No. 41 CFR 60-1.8(b) that prohibits the maintaining of segregated facilities.

SIGNATURE REQUIRED: This proposal cannot be considered valid unless signed and dated by an authorized agent of the offeror. Type or print the signatory's name, title, address, phone number and fax number in the spaces provided. Offers signed by an agent are to be accompanied by evidence of his/her authority unless such evidence has been previously furnished to the issuing office.

DELIVERY TIME:	NAME OF COMPANY:	DUNS #
PROPOSAL FIRM THROUGH:	ADDRESS:	Phone/Fax:
PAYMENT TERMS:	CITY, STATE & ZIP CODE:	E-MAIL:
SHIPPING TERMS: F. O. B. DESTINATION PREPAID AND ALLOWED	TYPED OR PRINTED NAME:	WEB ADDRESS:
FEDERAL EMPLOYER ID NO.:	SIGNATURE:	DATE:

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- Attachment D Bonding
- Attachment E Wood Flooring Schedule
- Attachment F Determination of Responsibility
- Attachment G Wood Flooring Specs
- Attachment H Wood Flooring Drawing

1.0 DEFINITIONS

The term "addenda" means written or graphic instructions issued by the University of Kentucky prior to the receipt of proposals that modify or interpret the RFP documents by additions, deletions, clarifications and/or corrections.

The term "competitive negotiations" means the method authorized in the Kentucky Revised Statutes, Chapter 45A.085.

The terms "offer" or "proposal" mean the offeror's/offers' response to this RFP.

The term "offeror" means the entity or contractor group submitting the proposal.

The term "contractor" means the entity receiving a contract award.

The term "purchasing agency" means the University of Kentucky, Procurement Services, Room 322 Peterson Service Building, Lexington, KY 40506-0005.

The term "purchasing official" means the University of Kentucky's appointed contracting representative.

The term "responsible offeror" means a person, company or corporation that has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance. In determining whether an offeror is responsible, the University may evaluate various factors including (but not limited to): financial resources; experience; organization; technical qualifications; available resources; record of performance; integrity; judgment; ability to perform successfully under the terms and conditions of the contract; adversarial relationship between the offeror and the University that is so serious and compelling that it may negatively impact the work performed under this RFP; or any other cause determined to be so serious and compelling as to affect the responsibility of the offeror.

The term "solicitation" means RFP.

The term "University" means University of Kentucky.

2.0 GENERAL OVERVIEW

2.1 Intent and Scope

This Request for Proposal (RFP) is issued to solicit proposals from qualified, experienced, financially sound, and responsible firms PROVIDE and INSTALL the **Wood ATHLETIC Flooring** for the updates in UK Memorial Coliseum in Lexington, Kentucky. The scope of work of this Project consists of the supply and warranting of all materials and products including transportation, as herein specified in this RFP and Attachments.

Also required will be full submittal documentation prior to releasing the order.

- The Offeror who is chosen must provide a single point of contact during the warranty period for all repairs. This single point of contact will have full responsibility for ensuring repairs are completed. After the warranty period has expired the Offeror must offer a maintenance contract on the system with a single point-of-contact for all repairs.
- The design shall comply with all applicable codes, Owners standards <http://www.uky.edu/Services/CPMD/ukstandards/Divisions/Master.html>, rules, and regulations.

Attachments

Attachment A General Conditions
Attachment B Special Conditions
Attachment C Congleton-Hacker Subcontract Agreement
Attachment D Bonding
Attachment E Wood Flooring Schedule
Attachment F Determination of Responsibility
Attachment G Wood Flooring Specs
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UK Memorial Coliseum – Reference Drawings

UKMC Drawings Vol 1 6-7-23.pdf
<https://congletonhacker.egnyte.com/dl/XD3omzk9Qz>
UKMC Drawings Vol 2 6-7-23.pdf
<https://congletonhacker.egnyte.com/dl/zEeR3ALx96>
UKMC Drawings Vol 3 6-7-23.pdf
<https://congletonhacker.egnyte.com/dl/LEHmR875lr>
UKMC Drawings Vol 4 6-7-23.pdf
<https://congletonhacker.egnyte.com/dl/kuYLd3MfRy>

2.2 Background Information

The University of Kentucky is in the process of renovating the 73 year old Memorial Coliseum. As part of this renovation the Wood Athletic Flooring in the gymnasium will be replaced.



2.3 University Information

Since his arrival, President Eli Capilouto has set forth an ambitious agenda to extend and enhance our role as Kentucky's land-grant and flagship research university. By focusing on infrastructure growth and improvement; creating opportunities for innovative teaching, learning, and academic excellence; fostering a robust research and creative scholarship enterprise; providing life-saving subspecialty care; empowering communities through service and outreach; and encouraging a transparent and shared dialogue about institutional priorities; the University of Kentucky will ensure a new century of promise for the people we impact.

Founded in 1865 as a land-grant institution adjacent to downtown Lexington, UK is nestled in the scenic heart of the beautiful Bluegrass Region of Kentucky. From its early beginnings, with only 190 students and 10 professors, UK's campus now covers more than 918 acres and is home to more than 30,000 students and approximately 14,500 employees, including more than 2,300 full-time faculty. UK is one of a small number of universities in the United States that has programs in agriculture, engineering, a full complement of health colleges including medicine and pharmacy, law and fine arts on a single campus, leading to groundbreaking discoveries and unique interdisciplinary collaboration. The state's flagship university consists of 17 academic and professional colleges where students can choose from more than 200 majors and degree programs at the undergraduate and graduate levels. The colleges are Agriculture, Food and Environment; Arts and Sciences; Business and Economics; Communication and Information; Dentistry; Design; Education; Engineering; Fine Arts; Graduate School; Health Sciences; Law; Medicine; Nursing; Pharmacy; Public Health; and Social Work. These colleges are supported by a modern research library system.

Research at the University of Kentucky is a dynamic enterprise encompassing both traditional scholarship and emerging technologies, and UK's research faculty, staff and students are establishing UK as one of the nation's most prolific public research universities. UK's research enterprise attracted \$285 million in research grants and contracts from out-of-state sources, which generated a \$580 million impact on the Kentucky economy. Included in this portfolio is \$153 million in federal awards from the National Institutes of Health, non-NIH grants from the Department Health and Human Services, the National Science Foundation, Department of Energy, Department of Agriculture and NASA, among others. The National Science Foundation ranks UK's research enterprise 44th among public institutions.

With more than 50 research centers and institutes, UK researchers are discovering new knowledge, providing a rich training ground for current students and the next generation of researchers, and advancing the economic growth of the Commonwealth of Kentucky. Several centers excel in the services offered to the public. The Gluck Equine Research Center is one of only three facilities of its kind in the world, conducting research in equine diseases.

The Center for Applied Energy Research is pursuing groundbreaking discovery across the energy disciplines. CAER staff are pioneering new ways to sustainably utilize Kentucky natural resources through carbon-capture algae technology, biomass/coal to liquid products and the opening of UK's first LEED-certified research lab to support the development of Kentucky's growing alternative energy industry. Among the brightest examples of UK's investment in transformative research is the Markey Cancer Center. As a center of excellence and distinction at UK, Markey's robust research and clinical enterprise is the cornerstone of our commitment to Kentucky – fundamental to our success in uplifting lives through our endeavors and improving the general health and welfare of our state – burdened by the nation's highest rate of cancer deaths per 100,000 people. In 2013, Markey earned the prestigious National Cancer Institute-designation (NCI) – one of 68 nationally and the only one in Kentucky.

The University of Kentucky was awarded a \$20 million Clinical Translational Sciences Award (CTSA) from the National Institutes of Health (NIH). As one of only 60 institutions with this research distinction, UK was awarded the CTSA for its potential in moving research and discovery in the lab into practical field and community applications. The CTSA and NCI are part of a trifecta of federal research grants that includes an Alzheimer's Disease Center. UK is one of only 22 universities in the country to hold all three premier grants from NIH.

Established in 1957, the medical center at UK is one of the nation's finest academic medical centers and includes the University's clinical enterprise, UK HealthCare. The 569-bed UK Albert B. Chandler Hospital and Kentucky Children's Hospital, along with 256 beds at UK Good Samaritan Hospital, are supported by a growing faculty and staff providing the most advanced subspecialty care for the most critically injured and ill patients throughout the Commonwealth and beyond. Over the last several years, the number of patients served by the medical enterprise has increased from roughly 19,000 discharges to more than 36,000 discharges in 2014.

UK Chandler Hospital includes the only Level 1 Trauma Center for both adult and pediatric patients in Central and Eastern Kentucky. In addition, UK HealthCare recently opened one of the country's largest robotic hybrid operating rooms and the first of its kind in the region. While our new patient care pavilion is the leading healthcare facility for advanced medical procedures in the region, our talented physicians consult with and travel to our network of affiliate hospitals so Kentucky citizens can receive the best health care available close to their home and never need to leave the Bluegrass for complex subspecialty care.

UK's agenda remains committed to accelerating the University's movement toward academic excellence in all areas and gain worldwide recognition for its outstanding academic programs, its commitment to students, its investment in pioneering research and discovery, its success in building a diverse community and its engagement with the larger society. It is all part of the University's fulfillment of our promise to Kentucky to position our state as a leader in American prosperity.

SUSTAINABILITY

Sustainability is an institution-wide priority for the University of Kentucky. We strive to ensure that all activities are ecologically sound, socially just, and economically viable, and that they will continue to be so for future generations. This commitment also prioritizes the integration of these principles in curricula, research, athletics, health care, creative works, and outreach. This principled approach to operational practices and intellectual pursuits is intended to prepare students and empower the campus community to support sustainable development in the Commonwealth and beyond. The UK Sustainability Strategic Plan guides these efforts (<https://www.uky.edu/sustainability/sustainability-strategic-plan>).

2.4 Supplier Diversity and Procurement

The University of Kentucky is committed to serve as an advocate for diverse businesses in their efforts to conduct business. Diverse Business Enterprises (DBE) consist of minority, women, disabled, veteran and disabled veteran owned business firms that are at least fifty-one percent owned and operated by an individual(s) of the aforementioned categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

The University is committed to increasing the amount of goods and services acquired from businesses owned and controlled by diverse persons to 10% of all procurement expenditures. The University expects its suppliers to support and assist in this effort.

Among the University's goals for DBE participation in procurement are:

- To ensure the absence of barriers that reduce the participation of diverse suppliers
- Educate vendors on "how to" do business with the University
- Support diverse vendors seeking to do business with the University in the areas of goods, services, construction, and other areas of procurement
- Encourage participation of qualified diverse vendors by directing them to agencies that can benefit from their product or service
- Provide resources for diverse vendors
- Sponsor events to assist diverse vendors in becoming active, responsible, and responsive participants in the University's purchasing opportunities

For additional information regarding how diverse suppliers may participate in this Request for Proposal, submit any questions to the Purchasing Officer as indicated in Section 3.2 by the Deadline for Written Questions date.

3.0 PROPOSAL REQUIREMENTS

3.1 Key Event Dates

Release of RFP	08/23/2023
Pre-Proposal Conference (Optional)	8/31/2023 @ 3:00 P.M. Lexington, KY Time
Deadline for Written Questions	9/7/2023 @ 1:00 P.M. Lexington, KY Time
RFP Proposals Due	9/19/2023 @ 3:00 P.M. Lexington, KY Time

3.2 Offeror Communication

To ensure that RFP documentation and subsequent information (modifications, clarifications, addenda, Written Questions and Answers, etc.) are directed to the appropriate persons within the offeror's firm, each offeror who intends to participate in this RFP is to provide the following information to the purchasing officer. Prompt, thorough compliance is in the best interest of the offeror. Failure to comply may result in incomplete or delayed communication of addenda or other vital information. Contact information is the responsibility of the offeror. Without the prompt information, any communication shortfall shall reside with the offeror.

- Name of primary contact
- Mailing address of primary contact
- Telephone number of primary contact
- Fax number of primary contact
- E-mail address of primary contact
- Additional contact persons with same information provided as primary contact

This information shall be transmitted via fax or e-mail to:

Ken Scott
 Procurement Services
 University of Kentucky
 322 Peterson Service Building
 Lexington, KY 40506-0005
 Phone: (859) 257-9102
 Fax: (859) 257-1951
 E-mail: kenneth.scott@uky.edu

All communication with the University regarding this RFP shall only be directed to the purchasing officer listed above.

3.3 Pre-Proposal Conference

The Pre-Proposal Conference will be held Thursday - August 31, 2023 at 3:00 PM via ZOOM – <https://uky.zoom.us/j/85922891218>.

The following items should be noted in reference to the Pre-Bid Conference:

Oral answers given at the conference are not binding. Offerors are encouraged to submit written questions after the Conference by the date listed in Section 3.1, Written Questions Phase 1, of this RFP. The questions and answers will be made part of the RFP and may become part of the contract with the successful Offeror. Oral answers given at the conference are not binding.

3.4 Offeror Presentations

All offerors whose proposals are judged acceptable for award may be required to make a presentation to the evaluation committee.

3.5 Preparation of Offers

The offeror is expected to follow all specifications, terms, conditions and instructions in this RFP.

The offeror will furnish all information required by this solicitation.

Proposals should be prepared simply and economically, providing a description of the offeror's capabilities to satisfy the requirements of the solicitation. Emphasis should be on completeness and clarity of content. All documentation submitted with the proposal should be bound in the single volume except as otherwise specified.

Include in your proposal all relevant and important information which will help the selection committee evaluate your firm for this project. UK reserves the right to make a selection from proposals without conducting interviews.

An electronic version of the RFP, in .PDF format only, is available through the University of Kentucky Purchasing Division website at: <https://purchasing.uky.edu/bid-and-proposal-opportunities>.

3.6 Proposed Deviations from the RFP

The stated requirements appearing elsewhere in this RFP shall become a part of the terms and conditions of any resulting contract. Any deviations therefrom must be specifically defined in accordance with the transmittal letter, Section 4.3 (d). If accepted by the University, the deviations shall become part of the contract, but such deviations must not be in conflict with the basic nature of this RFP.

Note: Offerors shall not submit their standard terms and conditions as exceptions to the University's General Terms and Conditions. Each exception to the University's General Terms and Conditions shall be individually addressed.

3.7 Proposal Submission and Deadline

Offeror must provide the following materials prior to 3 p.m. (Lexington, KY time) on the date specified in Section 3.1 and addressed to the purchasing officer listed in Section 3.2:

- One (1) electronic copy in PDF format

Note: Proposals received after the closing date and time will not be considered. In addition, proposals received via fax or e-mail are not acceptable.

The University of Kentucky accepts deliveries of RFPs Monday through Friday from 8 a.m. to 5 p.m. Lexington, KY time. However, RFPs must be received by 3 p.m. Lexington, KY time on the date specified on the RFP in order to be considered.

Proposals shall be enclosed in sealed envelopes to the above referenced address and shall show on the face of the envelope: the closing time and date specified, the solicitation number and the name and address of the offeror.

Note: In accordance with the Kentucky Revised Statute 45A.085, there will be no public opening.

3.8 Modification or Withdrawal of Offer

An offer and/or modification of offer received at the office designated in the solicitation after the exact hour and date specified for receipt will not be considered.

An offer may be modified or withdrawn by written notice before the exact hour and date specified for receipt of offers. An offer also may be withdrawn in person by an offeror or an authorized representative, provided the identity of the person is made known and the person signs a receipt for the offer, but only if the withdrawal is made prior to the exact hour and date set for receipt of offers.

3.9 Acceptance or Rejection and Award of Proposal

The University reserves the right to accept or reject any or all proposals (or parts of proposals), to waive any informalities or technicalities, to clarify any ambiguities in proposals and (unless otherwise specified) to accept any item in the proposal. In case of error in extension or prices or other errors in calculation, the unit price shall govern. Further, the University reserves the right to make a single award, split awards, multiple awards or no award, whichever is in the best interest of the University.

3.10 Rejection

Grounds for the rejection of proposals include (but shall not be limited to):

- Failure of a proposal to conform to the essential requirements of the RFP.
- Imposition of conditions that would significantly modify the terms and conditions of the solicitation or limit the offeror's liability to the University on the contract awarded on the basis of such solicitation.
- Failure of the offeror to sign the University RFP. This includes the Authentication of Proposal and Statement of Non-Collusion and Non-Conflict of Interest statements.
- Receipt of proposal after the closing date and time specified in the RFP.

3.11 Addenda

Any addenda or instructions issued by the purchasing agency prior to the time for receiving proposals shall become a part of this RFP. Such addenda shall be acknowledged in the proposal. No instructions or changes shall be binding unless documented by a proper and duly issued addendum.

3.12 Disclosure of Offeror's Response

The RFP specifies the format, required information and general content of proposals submitted in response to this RFP. The purchasing agency will not disclose any portions of the proposals prior to contract award to anyone outside the Purchasing Division, the University's administrative staff, representatives of the state or federal government (if required) and the members of the committee evaluating the proposals. After a contract is awarded in whole or in part, the University shall have the right to duplicate, use or disclose all proposal data submitted by offerors in response to this RFP as a matter of public record.

Any submitted proposal shall remain valid six (6) months after the proposal due date.

The University shall have the right to use all system ideas, or adaptations of those ideas, contained in any proposal received in response to this RFP. Selection or rejection of the proposal will not affect this right.

3.13 Restrictions on Communications with University Staff

From the issue date of this RFP until a contractor is selected and a contract award is made, offerors are not allowed to communicate about the subject of the RFP with any University administrator, faculty, staff or members of the board of trustees except: the purchasing office representative, any University purchasing official representing the University administration, others authorized in writing by the purchasing office and University representatives during offeror presentations. If violation of this provision occurs, the University reserves the right to reject the offeror's proposal.

3.14 Cost of Preparing Proposal

Costs for developing the proposals and any subsequent activities prior to contract award are solely the responsibility of the offerors. The University will provide no reimbursement for such costs.

3.15 Disposition of Proposals

All proposals become the property of the University. The successful proposal will be incorporated into the resulting contract by reference.

3.16 Alternate Proposals

Offerors may submit alternate proposals. If more than one proposal is submitted, all must be complete (separate) and comply with the instructions set forth within this document. Each proposal will be evaluated on its own merits.

3.17 Questions

All questions should be submitted by either fax or e-mail to the purchasing officer listed in Section 3.2 no later than the date listed in Section 3.1.

3.18 Section Titles in the RFP

Section titles used herein are for the purpose of facilitating ease of reference only and shall not be construed to infer the construction of contractual language.

3.19 No Contingent Fees

No person or selling agency shall be employed or retained or given anything of monetary value to solicit or secure this contract, except bona fide employees of the offeror or bona fide established commercial or selling agencies maintained by the offeror for the purpose of securing business. For breach or violation of this provision, the University shall have the right to reject the proposal, annul the contract without liability, or, at its discretion, deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee or other benefit.

3.20 Proposal Addenda and Rules for Withdrawal

Prior to the date specified for receipt of offers, a submitted proposal may be withdrawn by submitting a written request for its withdrawal to the University purchasing office, signed by the offeror. Unless requested by the University, the University will not accept revisions or alterations to proposals after the proposal due date.

4.0 PROPOSAL FORMAT AND CONTENT

4.1 Proposal Information and Criteria

The following list specifies the items to be addressed in the proposal. Offerors should read it carefully and address it completely and in the order listed to facilitate the University's review of the proposal.

Proposals shall be organized into the sections identified below. The content of each section is detailed in the following pages. It is strongly suggested that offerors use the same numbers for the following content that are used in the RFP.

- Signed Authentication of Proposal and Statement of Non-Collusion and Non-Conflict of Interest Form
- Transmittal Letter
- Executive Summary and Proposal Overview
- Criteria 1 - Offeror Qualifications
- Criteria 2 - Services Defined
- Criteria 3 - Financial Proposal
- Criteria 4 - Evidence of Successful Performance and Implementation Schedule
- Criteria 5 - Other Additional Information

4.2 Signed Authentication of Proposal and Statements of Non-Collusion and Non-Conflict of Interest Form

The Offeror will sign and return the proposal cover sheet and print or type their name, firm, address, telephone number and date. The person signing the offer must initial erasures or other changes. An offer signed by an agent is to be accompanied by evidence of their authority unless such evidence has been previously furnished to the purchasing agency. The signer shall further certify that the proposal is made without collusion with any other person, persons, company or parties submitting a proposal; that it is in all respects fair and in good faith without collusion or fraud; and that the signer is authorized to bind the principal offeror.

4.3 Transmittal Letter

The Transmittal Letter accompanying the RFP shall be in the form of a standard business letter and shall be signed by an individual authorized to legally bind the offeror. It shall include:

- A statement referencing all addenda and written questions, the answers and any clarifications to this RFP issued by the University and received by the offeror (If no addenda have been received, a statement to that effect should be included.).
- A statement that the offeror's proposal shall remain valid for two (2) months after the closing date of the receipt of the proposals.

4.4 Executive Summary and Proposal Overview

The Executive Summary and Proposal Overview shall condense and highlight the contents of the technical proposal in such a way as to provide the evaluation committee with a broad understanding of the entire proposal.

As part of the Executive Summary and Proposal Overview, Offeror shall submit with their response a summarized profile describing the demographic nature of their company or organization:

1. When was your organization established and/or incorporated?
2. Indicate whether your organization is classified as local, regional, national, or international.
3. Describe the size of your company in terms of number of employees, gross sales, etc.
4. Is your company certified as small business, minority-owned, women-owned, veteran-owned, disabled-owned, or similar classification?
5. Include other demographic information that you feel may be applicable to the Request for Proposal submission.
6. Offeror shall describe in detail their company's commitment to diversity, equity, and inclusion. Information shall be provided as to the number of diverse individuals that the vendor employees as well as a description of vendors efforts to do business with Diverse Business Enterprises as they conduct their own business. In additional, please indicate the diversity nature of your company as well as ownership race/ethnicity.

Check One Only	Diverse Business Description (If Diverse Business, determine the classification that is the best description)	Internal Code
	Minority Owned (only)	10
	Veteran Owned and Small Business	100
	Minority and Woman and Small Business	110
	Minority and Woman and Veteran-Owned Business	120
	Minority and Veteran and Small Business	130
	Woman and Veteran and Small Business	140
	Minority and Woman and Veteran-Owned Small Business	150
	Woman Owned (only)	20
	Small Business (only)	30
	Veteran Owned (only)	40
	Minority and Woman Owned	50
	Minority and Small Business	60
	Minority and Veteran-Owned	70
	Woman Owned and Small Business	80
	Woman and Veteran-Owned	90
	Diversity not indicated	999

Race/Ethnicity	Check One
Asian	
Black/African American	
Hispanic or Latino	
Native American	
Native Hawaiian/Pacific Islander	
White	
Other	

4.5 Criteria 1 - Offeror Qualifications

The purpose of the Offeror Qualifications section is to determine the ability of the offeror to respond to this RFP. Offerors must describe and offer evidence of their ability to meet each of the qualifications listed below.

Our supply chains and business partnerships are an important aspect of this work. In your proposal, please (A) provide your company’s mission and vision relative to sustainability, and (B) how your company, through services, products, and partnerships, will help the University of Kentucky advance specific elements of the Sustainability Strategic Plan.

4.6 Criteria 2 – Services Defined

- a) Provide a brief statement explaining how your company will accomplish the services described in this RFP. In the statement, please describe each phase of the work, (design, installation, training and after warranty service) include the staffing levels and frequency of the types of services required.
- b) What support will your company require from the University of Kentucky?
- c) Provide information on the capabilities of the system, the function of the overall system and each of its components and the ways in which the components are integrated.
- d) Provide information on the scalability of the system and each of its components.
- e) Please describe the warranty that your firm provides. Explain what is covered and what is not covered. Also, does it include labor?

4.7 Criteria 3 – Financial Proposal

The Financial Summary Form shall contain the complete financial offer made to the University using the format contained in Section 8.0. All financial information must be submitted in a sealed envelope under separate cover.

4.8 Criteria 4 – Evidence of Successful Performance and Implementation Schedule

- a) Please describe the schedule for this project and indicate how your firm proposes to meet the schedule for the completion of this project.

4.9 Criteria 5 – Other Additional Information

Please provide any additional information that the offeror feels should be considered when evaluating their proposal.

The offeror may present any creative approaches that might be appropriate. The offeror may also provide supporting documentation that would be pertinent to this RFP.

Offeror shall describe in detail their company's commitment to diversity, equity and inclusion. Information shall be provided as to the number of diverse individuals that the vendor employees as well as a description of vendors efforts to do business with Diverse Business Enterprises as they conduct their own business.

5.0 EVALUATION CRITERIA PROCESS

A committee of University officials appointed by the Chief Procurement Officer will evaluate proposals and make a recommendation to the Chief Procurement Officer. The evaluation will be based upon the information provided in the proposal, additional information requested by the University for clarification, information obtained from references and independent sources and oral presentations (if requested).

The evaluation of responsive proposals shall then be completed by an evaluation team, which will determine the ranking of proposals. Proposals will be evaluated strictly in accordance with the requirements set forth in this solicitation, including any addenda that are issued. The University will award the contract to the responsible offeror whose proposal is determined to be the most advantageous to the University, taking into consideration the evaluation factors set forth in this RFP.

The evaluation of proposals will include consideration of responses to the list of criteria in Section 4.0. Offerors must specifically address all criteria in their response. Any deviations or exceptions to the specifications or requirements must be described and justified in a transmittal letter. Failure to list such exceptions or deviations in the transmittal letter may be considered sufficient reason to reject the proposal.

The relative importance of the criteria is defined below:

Primary Criteria

- Offeror Qualifications
- Services Defined
- Financial Proposal
- Evidence of Successful Performance and Implementation

Secondary Criteria

- Other Additional Services

The University will evaluate proposals as submitted and may not notify offerors of deficiencies in their responses.

Proposals must contain responses to each of the criteria, listed in Section 4 even if the offeror's response cannot satisfy those criteria. A proposal may be rejected if it is conditional or incomplete in the judgment of the University.

6.0 SPECIAL CONDITIONS

6.1 Contract Term

IMPORTANT NOTE: THE SUCCESSFUL BIDDERS WILL ENTER INTO A SUBCONTRACT WITH CONGLETON-HACKER CONSTRUCTION COMPANY. THE FORM OF CONTRACT IS INCLUDED WITH THE BID DOCUMENTS. THERE WILL BE NO DIRECT CONTRACTUAL RELATIONSHIP BETWEEN THE SUCCESSFUL BIDDERS AND THE UNIVERSITY OF KENTUCKY.

The Congleton–Hacker Subcontract Agreement is included within Attachment C.

6.2 General Conditions

The General Conditions are Included within Attachment A

6.3 Special Conditions

The Special Conditions are included within Attachment B.

6.4 Effective Date

The effective date of the contract shall be the date upon which the parties execute it and all appropriate approvals, including that of the Commonwealth of Kentucky Government Contracts Review Committee, have been received.

6.5 Competitive Negotiation

It is the intent of the RFP to enter into competitive negotiation as authorized by KRS 45A.085.

The University will review all proposals properly submitted. However, the University reserves the right to request necessary modifications, reject all proposals, reject any proposal that does not meet mandatory requirement(s) or cancel this RFP, according to the best interests of the University.

Offeror(s) selected to participate in negotiations may be given an opportunity to submit a Best and Final Offer to the purchasing agency. All information-received prior to the cut-off time will be considered part of the offeror's Best and Final Offer.

The University also reserves the right to waive minor technicalities or irregularities in proposals providing such action is in the best interest of the University. Such waiver shall in no way modify the RFP requirements or excuse the offeror from full compliance with the RFP specifications and other contract requirements if the offeror is awarded the contract.

6.6 Appearance Before Committee

Any, all or no offerors may be requested to appear before the evaluation committee to explain their proposal and/or to respond to questions from the committee concerning the proposal. Offerors are prohibited from electronically recording these meetings. The committee reserves the right to request additional information.

6.7 Additions, Deletions or Contract Changes

The University reserves the right to add, delete, or change related items or services to the contract established from this RFP. No modification or change of any provision in the resulting contract shall be made unless such modification is mutually agreed to in writing by the contractor and the Chief Procurement Officer and incorporated as a written modification to the contract. Memoranda of understanding and correspondence shall not be interpreted as a modification to the contract.

6.8 Contractor Cooperation in Related Efforts

The University reserves the right to undertake or award other contracts for additional or related work to other entities. The contractor shall fully cooperate with such other contractors and University employees and carefully fit its work to such additional work. The contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by University employees. This clause shall be included in the contracts of all contractors with whom this contractor will be required to cooperate. The University shall equitably enforce this clause to all contractors to prevent the imposition of unreasonable burdens on any contractor.

6.9 Entire Agreement

The RFP shall be incorporated into any resulting contract. The resulting contract, including the RFP and those portions of the offeror's response accepted by the University, shall be the entire agreement between the parties.

6.10 Governing Law

The contractor shall conform to and observe all laws, ordinances, rules and regulations of the United States of America, Commonwealth of Kentucky and all other local governments, public authorities, boards or offices relating to the property or the improvements upon same (or the use thereof) and will not permit the same to be used for any illegal or immoral purposes, business or occupation. The resulting contract shall be governed by Kentucky law and any claim relating to this contract shall only be brought in the Franklin Circuit Court in accordance with KRS 45A.245.

6.11 Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act

To the extent Company receives Personal Information as defined by and in accordance with Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, KRS 61.931, 61.932 and 61.933 (the "Act"), Company shall secure and protect the Personal Information by, without limitation: (i) complying with all requirements applicable to non-affiliated third parties set forth in the Act; (ii) utilizing security and breach investigation procedures that are appropriate to the nature of the Personal Information disclosed, at least as stringent as University's and reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation, or destruction; (iii) notifying University of a security breach relating to Personal Information in the possession of Company or its agents or subcontractors within seventy-two (72) hours of discovery of an actual or suspected breach unless the exception set forth in KRS 61.932(2)(b)2 applies and Company abides by the requirements set forth in that exception; (iv) cooperating with University in complying with the response, mitigation, correction, investigation, and notification requirements of the Act , (v) paying all costs of notification, investigation and mitigation in the event of a security breach of Personal Information suffered by Company; and (vi) at University's discretion and direction, handling all administrative functions associated with notification, investigation and mitigation.

6.12 Termination for Convenience

The University of Kentucky, Purchasing Division, reserves the right to terminate the resulting contract without cause with a thirty (30) day written notice. Upon receipt by the contractor of a "notice of termination," the contractor shall discontinue all services with respect to the applicable contract. The cost of any agreed upon services provided by the contractor will be calculated at the agreed upon rate prior to a "notice of termination" and a fixed fee contract will be pro-rated (as appropriate).

6.13 Termination for Non-Performance

Default

The University may terminate the resulting contract for non-performance, as determined by the University, for such causes as:

- Failing to provide satisfactory quality of service, including, failure to maintain adequate personnel, whether arising from labor disputes, or otherwise any substantial change in ownership or proprietorship of the Contractor, which in the opinion of the University is not in its best interest, or failure to comply with the terms of this contract;
- Failing to keep or perform, within the time period set forth herein, or violation of, any of the covenants, conditions, provisions or agreements herein contained;
- Adjudicating as a voluntarily bankrupt, making a transfer in fraud of its creditors, filing a petition under any section from time to time, or under any similar law or statute of the United States or any state thereof, or if an order for relief shall be entered against the Contractor in any proceeding filed by or against contractor thereunder. In the event of any such involuntary bankruptcy proceeding being instituted against the Contractor, the fact of such an involuntary

petition being filed shall not be considered an event of default until sixty (60) days after filing of said petition in order that Contractor might during that sixty (60) day period have the opportunity to seek dismissal of the involuntary petition or otherwise cure said potential default; or

- Making a general assignment for the benefit of its creditors, or taking the benefit of any insolvency act, or if a permanent receiver or trustee in bankruptcy shall be appointed for the Contractor.

Demand for Assurances

In the event the University has reason to believe Contractor will be unable to perform under the Contract, it may make a demand for reasonable assurances that Contractor will be able to timely perform all obligations under the Contract. If Contractor is unable to provide such adequate assurances, then such failure shall be an event of default and grounds for termination of the Contract.

Notification

The University will provide ten (10) calendar days written notice of default. Unless arrangements are made to correct the non-performance issues to the University's satisfaction within ten (10) calendar days, the University may terminate the contract by giving forty-five (45) days notice, by registered or certified mail, of its intent to cancel this contract.

6.14 Funding Out

The University may terminate this contract if funds are not appropriated or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the contract. The University shall provide the contractor thirty (30) calendar days' written notice of termination under this provision.

6.15 Prime Contractor Responsibility

Any contracts that may result from the RFP shall specify that the contractor(s) is/are solely responsible for fulfillment of the contract with the University.

6.16 Assignment and Subcontracting

The Contractor(s) may not assign or delegate its rights and obligations under any contract in whole or in part without the prior written consent of the University. Any attempted assignment or subcontracting shall be void.

6.18 Permits, Licenses, Taxes

The contractor shall procure all necessary permits and licenses and abide by all applicable laws, regulations and ordinances of all federal, state and local governments in which work under this contract is performed.

The contractor must furnish certification of authority to conduct business in the Commonwealth of Kentucky as a condition of contract award. Such registration is obtained from the Secretary of State, who will also provide the certification thereof. However, the contractor need not be registered as a prerequisite for responding to the RFP.

The contractor shall pay any sales, use, personal property and other tax arising out of this contract and the transaction contemplated hereby. Any other taxes levied upon this contract, the transaction or the equipment or services delivered pursuant hereto shall be the responsibility of the contractor.

The contractor will be required to accept liability for payment of all payroll taxes or deductions required by local and federal law including (but not limited to) old age pension, social security or annuities.

6.18 Attorneys' Fees

In the event that either party deems it necessary to take legal action to enforce any provision of the contract and in the event that the University prevails, the contractor agrees to pay all expenses of such action including attorneys' fees and costs at all stages of litigation.

6.19 Royalties, Patents, Copyrights and Trademarks

The Contractor shall pay all applicable royalties and license fees. If a particular process, products or device is specified in the contract documents and it is known to be subject to patent rights or copyrights, the existence of such rights shall be disclosed in the contract documents and the Contractor is responsible for payment of all associated royalties. To the fullest extent permitted by law the Contractor shall indemnify, hold the University harmless, and defend all suits, claims, losses, damages or liability resulting from any infringement of patent, copyright, and trademark rights resulting from the incorporation in the Work or device specified in the Contract Documents.

Unless provided otherwise in the contract, the Contractor shall not use the University's name nor any of its trademarks or copyrights, although it may state that it has a Contract with the University.

6.20 Indemnification

The contractor shall indemnify, hold and save harmless the University, its affiliates and subsidiaries and their officers, agents and employees from losses, claims, suits, actions, expenses, damages, costs (including court costs and attorneys' fees of the University's attorneys), all liability of any nature or kind arising out of or relating to the Contractor's response to this RFP or its performance or failure to perform under the contract awarded from this RFP. This clause shall survive termination for as long as necessary to protect the University.

6.21 Insurance

The successful Contractor shall procure and maintain, at its expense, the following minimum insurance coverages insuring all services, work activities and contractual obligations undertaken in this contract. These insurance policies must be with insurers acceptable to the University.

COVERAGES	LIMITS
Workers' Compensation	Statutory Requirements (Kentucky)
Employer's Liability	\$500,000/\$500,000/\$500,000
Commercial General Liability including operations/completed operations, products and contractual liability (including defense and investigation costs), and this contract	\$100,000 each occurrence (BI & PD combined) \$2,000,000 Products and Completed Operations Aggregate
Business Automobile Liability covering owned, leased, or non-owned autos	\$1,000,000 each occurrence (BI & PD combined)

The successful contractor agrees to furnish Certificates of Insurance for the above-described coverages and limits to the University of Kentucky, Purchasing Division. The University, its trustees and employees must be added as additional insured on the Commercial General Liability policy with regard to the scope of this solicitation. Any deductibles or self-insured retention in the above-described policies must be paid and are the sole responsibility of the contractor. Coverage is to be primary and non-contributory with other coverage (if any) purchased by the University. All of these required policies must include a Waiver of Subrogation (except Workers' Compensation) in favor of the University, its trustees and employees.

6.22 Method of Award

It is the intent of the University to award a contract to the qualified offeror whose offer, conforming to the conditions and requirements of the RFP, is determined to be the most advantageous to the University, cost and other factors considered.

Notwithstanding the above, this RFP does not commit the University to award a contract from this solicitation. The University reserves the right to reject any or all offers and to waive formalities and minor irregularities in the proposal received.

6.23 Reciprocal Preference

In accordance with KRS 45A.494, a resident offeror of the Commonwealth of Kentucky shall be given a preference against a nonresident offeror. In evaluating proposals, the University will apply a reciprocal preference against an offeror submitting a proposal from a state that grants residency preference equal to the preference given by the state of the nonresident offeror. Residency and non-residency shall be defined in accordance with KRS 45A.494(2) and 45A.494(3), respectively. Any offeror claiming Kentucky residency status shall submit with its proposal a notarized affidavit affirming that it meets the criteria as set forth in the above reference statute.

6.24 Reports and Auditing

The University, or its duly authorized representatives, shall also have access to any books, documents, papers, records or other evidence which are directly pertinent to this contract for the purpose of financial audit or program review.

In the event that successful Contractor(s) does not meet the reporting requirements based on the terms and conditions herein, the contract is subject to cancellation or termination.

6.25 Confidentiality

The University recognizes an offeror's possible interest in preserving selected information and data included in the proposal; however, the University must treat such information and data as required by the Kentucky Open Records Act, KRS 61.870, et seq.

Information areas which normally might be considered proprietary, and therefore confidential, shall be limited to individual personnel data, customer references, formulae and company financial audits which, if disclosed, would permit an unfair advantage to competitors. If a proposal contains information in these areas and the offeror declares them to be proprietary in nature and not available for public disclosure, the offeror shall declare in the Transmittal Letter the inclusion of proprietary information and shall noticeably label as confidential or proprietary each sheet containing such information. Proposals containing information declared by the offeror to be proprietary or confidential, either wholly or in part, outside the areas listed above may be deemed non-responsive and may be rejected.

The University's General Counsel shall review each offeror's information claimed to be confidential and, in consultation with the offeror (if needed), make a final determination as to whether or not the confidential or proprietary nature of the information or data complies with the Kentucky Open Records Act.

6.26 Conflict of Interest

This Request for Proposal and resulting Contract are subject to provisions of the Kentucky Revised Statutes regarding conflict of interest and the University of Kentucky's Ethical Principles and Code of Conduct (www.uky.edu/Legal/ethicscode.htm). When submitting and signing a proposal, an offeror is certifying that no actual, apparent or potential conflict of interest exists between the interests of the University and the interests of the offeror. A conflict of interest (whether contractual, financial, organizational or otherwise) exists when any individual, contractor or subcontractor has a direct or indirect interest because of a financial or pecuniary interest, gift or other activities or relationships with other persons (including business, familial or household relationships) and is thus unable to render or is impeded from rendering impartial assistance or advice, has impaired objectivity in performing the proposed work or has an unfair competitive advantage.

Questions concerning this section or interpretation of this section should be directed to the University purchasing officer identified in this RFP.

6.27 Personal Service Contract Policies

Not applicable

6.28 Copyright Ownership and Title to Designs and Copy

The contractor and University intend this RFP to result in a contract for services, and both consider the products and results of the services to be rendered by the contractor hereunder to be a work made for hire. The contractor acknowledges and agrees that the work and all rights therein, including (without limitation) copyright, belongs to and shall be the sole and exclusive property of the University. For any work that is not considered a work made for hire under applicable law, title and copyright ownership shall be assigned to the University.

Title to all dies, type, cuts, artwork, negatives, positives, color separations, progressive proofs, plates, copy and any other requirement not stated herein required for completion of the finished product for use in connection with any University job shall be the property of and owned by the University. Such items shall be returned to the appropriate department upon completion and/or delivery of work unless otherwise authorized by the University. In the event that time of return is not specified, the contractor shall return all such items to the appropriate University department within one week of delivery.

6.29 University Brand Standards

The contractor must adhere to all University of Kentucky Brand Standards. University Brand Standards are maintained by the University Public Relations Office (UKPR) and can be viewed at <http://www.uky.edu/prmarketing/brand-standards>. Non-adherence to the standards can have a penalty up to and including contract cancellation. Only the UKPR Director or designee can approve exceptions to the University standards.

Graphics standards for the UK HealthCare areas are governed by UK HealthCare Clinical Enterprise Graphic Standards, found at: <https://ukhealthcare.uky.edu/staff/brand-strategy>.

Contractor warrants that its products or services provided hereunder will be in compliance with all applicable Federal disabilities laws and regulations, including without limitation the accessibility requirements of Section 255 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 255) and Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. For purposes of clarity, updated regulations under Section 508 standards now incorporate WCAG 2.0, and for purposes of this agreement WCAG 2.0 Level AA compliance is expressly included. Contractor agrees to promptly respond to, resolve and remediate any complaint regarding accessibility of products or services in a timely manner and provide an updated version to University at no cost. If deficiencies are identified, University reserves the right to request from Contractor, a timeline by which accessibility standards will be incorporated into the products or services provided by Contractor and shall provide such a timeline within a commercially reasonable duration of time. Failure to comply with these requirements shall constitute a material breach of this Agreement and shall be grounds for termination of this Agreement.

Where any customized web services are provided, Contractor represents that it has reviewed the University's Web Policy and all products or services will comply with its published standards.

Contractor will provide University with a current Voluntary Product Accessibility Template (VPAT) for any deliverable(s). If none is available, Vendor will provide sufficient information to reasonably assure the University that the products or services are fully compliant with current requirements.

6.30 Printing Statutes

The purchase of printing services for all state agencies is governed by Chapter 57 of the Kentucky Revised Statutes. Specifically, all printing must be awarded to the lowest responsive bidder and approved by the Governor of Kentucky. In compliance with these statutes, all printing must be provided by a contract established by the Purchasing Division.

6.31 Requirement for Contract Administration Fee

Not applicable

6.32 Payment Terms

1. Payments by check. Payment terms for check payments are Net-30.

7.0 SCOPE OF SERVICES

7.1 Detailed Services Defined

1. Provide and install turn-key Wood Athletic Flooring. Installation shall include all graphics and/or paint applied to the wood floor.
2. Include any sanding or finishing of wood to achieve final design.

7.2 Optional Services

- a) Provide a warranty as described in Section 6.15, Insurance Requirements, of this RFP.

8.0 FINANCIAL OFFER SUMMARY

Offerors are to provide a fixed price for the services offered.

8.1 Base Bid

The Bidder agrees to furnish all materials, supplies and services required to complete the Work, for the above referenced Project, for the Capital Construction Procurement Section, University of Kentucky, as described in the RFP including Attachments and as modified by the Addenda listed above.

FOR THE LUMP SUM OF _____
 _____ (USE WORDS)
 _____ DOLLARS AND _____ CENTS.
 _____ (USE WORDS) _____ (USE WORDS)
 (\$ _____)
 _____ (USE FIGURES)

8.2 Optional and Unit Pricing

Please provide Optional Pricing for items identified in Section 4.6, question 8 – Services Defined

Prices shall include the furnishing of all labor, materials, supplies and services and shall include all items of cost, overhead and profit for the Contractor and any subcontractor involved.

Also, provide **Unit Pricing** that may apply for this project. Unit Pricing shall be used uniformly without modifications for either additions or deductions. The Unit Prices as established shall be used to determine the equitable adjustment of the Contract Price in connection with changes, deletions or extra work performed under the Contract and the "Rules of Measurement" set forth in the General Conditions shall govern.

All Offerors will be required to complete and submit the following information. The information requested in this submittal is required to assist the University in determining contractor responsibility to complete the project being bid.

8.3 Alternate Pricing

In addition to the above financial offer, the offeror may submit alternative financial proposals, however the information requested above must be supplied and will be used for proposal evaluation purposes.

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FOR CONSTRUCTION BY A CONSTRUCTION MANAGER AT RISK
University of Kentucky
Capital Construction Division

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**GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION BY A
CONSTRUCTION MANAGER AT RISK
University of Kentucky
Capital Construction Division**

These General Conditions are binding upon the Construction Manager and all Sub-contractors as each are subject to the provisions contained herein.

ARTICLE 1 - DEFINITIONS

1.1 Wherever used in these General Conditions or in other Contract Documents, the following terms have the meaning indicated which are applicable to both the singular and plural thereof:

1.1.1 ARCHITECT'S SUPPLEMENTAL INSTRUCTIONS (ASI) - The term "ASI" means a written order issued by the Consultant that clarifies or interprets the Contract Documents, that orders minor changes in the Work, that does not require an adjustment in either cost or time, and that does not require a Change Order.

1.1.2 BUSINESS DAY – The term "Business Day" means a Calendar Day that is not a Saturday, Sunday or legal holiday in Fayette County, Kentucky.

1.1.3 CALENDAR DAY - The term "Calendar Day" means a day of twenty-four hours measured from midnight to the next midnight

1.1.4 CHANGE ORDER - The term "Change Order" means a written order to the Construction Manager, signed by the Owner and issued after the execution of the Contract, directing a change in the Work or an adjustment in the Contract Amount or the Contract Time. A Change Order may be an agreed change by the Construction Manager and the Owner or it may be a unilateral change by the Owner.

1.1.5 CONSULTANT - The term "Consultant" means the person and/or entity, whether singular or plural, either Architect, Engineer or other Consultant, who is or are identified as such in the Contract Documents.

1.1.6 CONSTRUCTION MANAGER or CONSTRUCTION MANAGER AT RISK (CM) - The term "Construction Manager" or "Construction Manager at Risk" (CM) means the person or entity who will or has entered into a contract with the Owner that assumes the risk for construction of the Project as the construction manager, and who will provide consultation and collaboration regarding the construction during and after design of the Project. The CM shall execute and hold all construction Trade Contracts and Purchase Orders for the Project.

1.1.7 CONTRACT - The term "Contract" means the Contract between Owner and Construction Manager and consists of all Contract Documents as defined in Article 1.1.10 of these General Conditions.

1.1.8 CONTRACT AMOUNT - The term "Contract Amount" means the sum stated in the Agreement which represents the total amount payable by the Owner to the Construction Manager for the performance of the Work under the Contract Documents, plus or minus adjustments as provided for in the Contract Documents or by approved Change Orders.

1.1.9 CONTRACT DOCUMENTS - The "Contract Documents" include the Agreement of Contract between the Owner and the Construction Manager (the "Agreement"); the Request for Proposal; the General Conditions; the Special Conditions; the Construction Manager's Form of Proposal; the Construction Manager's Bonds; the Specifications, Drawings and Addenda for the construction of the Project which are to be used for bidding of the bid pack/Trade Contracts; and any Change Orders issued after execution of this Contract. The Contract Documents shall not be construed to create a contractual relationship of any kind between the Owner and any Sub-contractor, or any person or entity other than the Construction Manager. Documents not included or expressly contemplated in this Article do not, and shall not, form any part of the Contract for Construction. Without limiting the generality of the foregoing, shop drawings and other submittals from the Construction Manager or its Sub-contractors and suppliers do not constitute a part of the Contract Documents. Except as otherwise provided, where these Contract Documents obligate the Construction Manager to certain

responsibilities or require the Construction Manager to perform certain actions, the Construction Manager may require these same responsibilities and/or actions of one or more Sub-contractors. However, assignment of such responsibilities or actions to one or more Sub-contractors shall not be construed to relieve the Construction Manager of its obligation to the University under this contract.–

1.1.10 CONTRACT TIME - The term "Contract Time", unless otherwise provided, means the specified number of consecutive Calendar Days following the stipulated commencement of the Work as stated in the Work Order, plus or minus adjustments as provided for by approved Change Orders, within which the Construction Manager shall complete the Work required by the Contract and shall achieve certification of substantial and final completion.

1.1.11 KRS REFERENCES - Reference to "KRS" means the "Kentucky Revised Statutes" adopted by the Commonwealth of Kentucky, including all laws that may have been revised, amended, supplemented or new laws enacted.

1.1.12 OWNER - The term "Owner" means the University of Kentucky, a statutory body corporate existing pursuant to Sections 164.100 et seq. of the Kentucky Revised Statutes.

1.1.13 PROJECT - The term "Project" means the total construction of the Work performed under the Contract Documents, which may be the whole or a part, and which may include construction by the Owner or by separate contracts.

1.1.14 PROJECT MANAGER - The term "Project Manager", when used alone, means the Owner's representative responsible for administration and management of the Project. The Owner's Project Manager during construction shall be the designated University of Kentucky Capital Projects Management Project Manager that is in charge of the Project. The term "CM Project Manager" means the individual employed by the Construction Manager who is assigned to the Project to provide overall management during both the design and construction phases of the Project, and who has total responsibility for the successful completion of the Project

1.1.15 PROVIDE - The term "Provide," as used throughout the specifications, shall mean furnish, install and pay for.

1.1.16 SHOP DRAWINGS - The term "Shop Drawings" means drawings, diagrams, schedules, and other data specially prepared for the Work by the Construction Manager or any Sub-contractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

1.1.17 SUBSTANTIAL COMPLETION - The term "Substantial Completion" is the point at which, as certified in writing by the Owner, a project is at the level of completion, in strict compliance with the contract, where (a) necessary approval by public regulatory authorities (and by other authorities having jurisdiction or as identified in Article 11.2, as necessary) has been given; (b) the Owner has received all required warranties and documentation, and (c) the Owner may enjoy beneficial use or occupancy and may use, operate, and maintain the project in all respects, for its intended purpose. Partial use or occupancy shall not necessarily result in the project being deemed substantially complete and shall not be evidence of Substantial Completion. In order for the Owner to enjoy beneficial use or occupancy and use, operate, and maintain the project in all respects, for its intended purpose, the stage or progress of the Work or a designated portion thereof shall be sufficiently complete, accessible, operable and usable, and all parts, systems and site Work shall be 100% complete, cleaned and available for the Owner's full use without interruption in accordance with the Contract Documents, including but not limited to the provisions of Article 28 of these General Conditions. The Work will not be considered acceptable for Substantial Completion review until all Project systems included in the Work are operational as designed and scheduled, all designated or required governmental inspections and certifications have been made and approvals provided to the Owner, designated instruction of the Owner's personnel in the operation of systems has been completed, and all final finishes within the Contract Documents are in place. In general, the only remaining Work shall be minor in nature so that the Owner and/or the Owner's tenants could occupy the Project on that date and the completion of the Work by the Construction Manager would not materially interfere or hamper the Owner's or the Owner's tenants' normal business operations. As a further condition of Substantial Completion acceptance, the Construction Manager shall certify in writing that all

remaining Work, the same being solely of a “punch list” nature, will be completed within thirty (30) consecutive Calendar Days following the date of Substantial Completion.

1.1.17.1 The parties agree that “substantial completion” as defined in Article No. 2 of the Agreement and Article 1 of the General Conditions, as extended by approved Change Order(s) pursuant to Article 18.1 of the General Conditions, shall be the “date of completion specified in the contract” for purposes of KRS. 45A.250(2).

1.1.18 SUB-CONTRACTOR - The term "Sub-contractor" means the person, company, corporation, joint venture or other legal entity with whom the Construction Manager has executed a Contract for a portion of the Work.

1.1.19 WORK - The term "Work" means the scope of construction and services required by the Contract Documents and all approved Change Orders, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Construction Manager to perform and complete the Construction Manager's obligations under the Contract in an expeditious, orderly and workmanlike manner. The Work may constitute the whole or a part of the Project.

1.1.20 WORK ORDER - The term "Work Order" means a written notice by the Owner to the Construction Manager authorizing the Construction Manager to commence Work under the Contract and establishing the beginning date from which the time for Substantial and Final Completion shall be established.

1.1.21 UNIT PRICE - The term "Unit Price" means the amount per unit of measurement for materials or services as described in the bid documents.

ARTICLE 2 – CONSULTANT

2.1 The Consultant will be the Owner's representative during construction and until the Work is complete. The Consultant will advise and consult with the Owner. The Owner's instructions to the Construction Manager may be forwarded through the Consultant.

2.2 The Consultant will regularly, but no less frequently than monthly, visit the site to become familiar with the progress of the Work, the quality of the Work being provided and to determine if the Work is proceeding in accordance with the Contract Documents. On the basis of these on-site inspections, the Consultant will inform the Owner of the progress of the Work, will advise the Owner of any defects and deficiencies observed in the Work and, when appropriate, will certify to the Owner that the Work in place equals or exceeds the amount requested by the Construction Manager on all applications for progress payments.

2.2.1 If applicable for the Work, the Consultant will verify to the Owner that the Construction Manager is performing erosion prevention and sediment control inspections as required by the Kentucky Division of Water Construction General Permit (KYR10) at least once every 7 days and shall include the findings in the site visit reports.

2.3 The Consultant will be the interpreter of the requirements of the drawings and specifications and any changes made to the drawings and specifications.

2.4 Claims, disputes, and other matters in question that arise relating to the execution or the progress of the Work shall be referred in writing to the Consultant by the Construction Manager. The Consultant will provide a response in accordance with and subject to the provisions of Article 38 of these General Conditions.

2.5 The Consultant will have the authority to reject Work which does not conform to the Contract Documents or to the required level of quality and performance.

2.6 The Consultant will review and approve, or take other appropriate action upon receipt of the Construction Manager's submittals such as Shop Drawings, product data, and samples. The review of submittals will be for general conformance with the design concept of the work, and for compliance with the information provided by the Contract Documents. Such review will not relieve the Construction Manager of

any responsibility for errors or omissions in submittals, and will in no way constitute a waiver of or change to the requirements of the Contract Documents.

2.6.1 The Consultant's review and response will be completed with reasonable promptness with a goal of ten (10) business days or less. The Consultant's review of a specific item shall not indicate approval of an assembly of which the item is a component.

2.7 The Consultant will prepare Change Orders for the Owner to direct changes in the Work. Minor changes in the Work, not involving modifications to the contract cost or completion times and that are consistent with the purpose of Work, may be directed by the Consultant through Architect's Supplemental Instructions (ASI).

2.8 When requested by the Construction Manager, the Consultant will conduct inspections to determine if the Project is at the level of completion required by and is in strict compliance with the Contract such that the Owner may enjoy beneficial use or occupancy and may use, operate, and maintain the project in all respects for its intended purpose, as further defined in the Contract. If the level of completion warrants, the Consultant will confirm that all necessary approvals by public regulatory authorities or other authorities having jurisdiction have been given, will confirm that the Owner has received all required warranties and documentation, will recommend dates for certification of Substantial Completion and Final Completion by the Owner, and will complete and submit the Notice of Termination of coverage under the KPDES General Permit for Storm Water Discharges Associated with Construction Activity.

2.9 The Construction Manager will accept direction for the Work on the Project only from the Owner's Project Manager or from the Consultant. Requests for information from the Construction Manager shall be directed to the Consultant.

ARTICLE 3 - CORRELATION AND INTENT OF CONTRACT DOCUMENTS

3.1 Execution of the Contract by the Construction Manager is a representation that the Construction Manager has or shall thoroughly and carefully examine the site of the of Work; shall timely investigate all conditions which can affect the Work or its cost, including but not limited to availability of labor, materials, supplies, water, electrical power, roads, access to the site, uncertainties of weather, water tables, the character of equipment and facilities needed to perform the Work, and local conditions under which the Work is to be performed; and further, that the Construction Manager shall insure that the documents issued for bidding by Sub-contractors reflect the results of this investigation and are adequate to complete the Work. It is the responsibility of the Construction Manager to be familiar with and comply with all Federal, State, and local laws, ordinances, and regulations which might affect those engaged in the Work, and to be familiar with the materials, equipment, or procedures to be used in the Work, or which in any other way could affect the completion of the Work. The Construction Manager shall carefully study and compare the Contract Documents with each other and with other information provided to the Construction Manager by the Consultant or the Owner pursuant to the Contract Documents and shall notify the Owner and the Consultant in writing of any errors, inconsistencies or omissions in the Contract Documents recognized by the Construction Manager. Any failure to properly familiarize itself with the proposed Work shall not relieve the Construction Manager from the responsibility for completing the Work in accordance with the Contract Documents.

3.2 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Construction Manager. All labor or materials which are reasonably inferable from the Contract Documents and which are necessary to produce the desired result, even though not specifically mentioned in the Contract Documents, shall be included in the Work at no additional cost to the Owner.

3.3 In the event a question arises regarding the meaning or intent of the Contract Documents, the Construction Manager shall report it by preparing an RFI in eCommunication[®] to the Consultant. The Consultant shall furnish, with reasonable promptness and with a goal of three (3) business days and by whatever means as may be appropriate, additional instructions necessary for the proper execution of the Work. All such drawings and instructions shall be consistent with the Contract Documents, true developments thereof, and reasonably inferable therefrom. The Work shall be executed in conformity therewith and the Construction

Manager shall do no Work without proper drawings and instructions. Items indicated on drawings as "N.I.C." or "Not In Contract" are shown for explanation purposes only and are not to be included in this Contract.

3.4 The Contract Documents are complementary, and what is required by one shall be binding as if required by all. In case of conflicts between the various documents, the order of precedence will be as follows: (1) Addenda, (2) Special Conditions, (3) General Conditions, (4) Technical provisions of the Specifications and (5) Drawings.

3.5 Any notice to the Construction Manager from the Owner regarding this Contract shall be in writing and delivery and service of such notice shall be considered complete when sent by certified mail to the Construction Manager at Construction Manager's last known address. Such notice may also, at the Owner's election, be hand-delivered to the Construction Manager or the Construction Manager's authorized representative.

ARTICLE 4 - PRE-CONSTRUCTION CONFERENCE

4.1 Following the execution of the Contract, a pre-construction conference will be held. Representatives of the Capital Project Management Division, Consultant, Construction Manager, and all major Sub-contractors shall be present to discuss the time for construction, methods and plan of operation, authority of the Consultant, procedures for handling shop drawings, progress estimates and requests for payments, and other relevant issues. The time and location of this meeting will be the responsibility of the Construction Manager in consultation with the Consultant, Owner and other interested parties.

4.2 Environmental aspects of the project, including erosion prevention and sediment control (EPSC) and storm water management shall be discussed during this conference. The Group shall discuss the Storm Water Pollution Prevention Plan (SWPPP) to ensure that all parties understand the requirements. During this meeting the responsibility for reading the rain gage on a daily basis will be established. The Construction Manager will identify the initial measures to be installed prior to land disturbing activities beginning. Any modifications to the SWPPP due to constructability issues should be discussed at this conference.

ARTICLE 5 - SHOP DRAWINGS

5.1 The Construction Manager shall submit a shop drawing and product sample submittal schedule to the Consultant establishing dates for the submission of Shop Drawings and product samples prior to the submittal of the Construction Manager's first application for payment for construction phase services. The schedule shall have been coordinated with all Sub-contractors and material suppliers as well as the Construction Manager's construction schedule and shall allow for adequate and reasonable time for review of the samples and submittals by the Consultant. The Construction Manager shall be responsible for compliance with the submittal schedule and shall insure that the submittal schedule is maintained in order to accurately reflect the status of processing all required submittals.

5.2 The Construction Manager shall review product samples and Shop Drawings for compliance with the requirements of the Contract Documents, and shall submit them to the Consultant in accordance with submittal procedure and schedule established. The Construction Manager's review and submittal to the Consultant of any Shop Drawing or sample shall constitute a representation to the Owner and Consultant that a) the Construction Manager has determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers, and similar data, or assumes full responsibility for doing so, and that b) each Shop Drawing or sample has been reviewed or coordinated with the requirements of the Work and the Contract Documents. Shop Drawings and submittal requirements shall not be deemed satisfied until approvable documents are received by the Consultant. Incorrect or incomplete submittals will be returned to the Construction Manager without action. No claim for additional time or extension of the contract will be considered if such claim is the result of failure by the Construction Manager to provide correct, accurate, complete and approvable submittals.

5.3 The Consultant will review submittals with reasonable promptness, and take appropriate action or return submittals to the Construction Manager for corrections as may be required. The Construction Manager shall make any corrections required by the Consultant for compliance with the Contract and shall return the required number of corrected copies of Shop Drawings and resubmit new samples until approved. The

Construction Manager shall direct specific attention, in writing, or on resubmitted Shop Drawings, to revisions other than the corrections called for by the Consultant on previous submissions.

5.4 Where a Shop Drawing or sample submission is required by the specifications, no related Work shall be commenced until the submission has been accepted in writing by the Consultant. The review and acceptance shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The acceptance of a separate item will not indicate acceptance of the assembly in which the item functions. A copy of each accepted Shop Drawing and product sample shall be kept in good order by the Construction Manager at the site and shall be made available to the Consultant on request.

5.5 The Consultant's acceptance of Shop Drawings or samples shall not relieve the Construction Manager from the responsibility for any deviations from the requirements of the Contract Documents unless the Construction Manager has in writing called the Consultant's attention to such deviation at the time of submission and the Consultant has given written approval to the specific deviation. Any acceptance by the Consultant does not relieve the Construction Manager from responsibility for errors or omissions in the Shop Drawings.

ARTICLE 6 - LAYING OUT WORK

6.1 The Construction Manager will secure all data at the site of the building such as grades of lot, convenience of receiving and sorting material, location of public services, and other information which will have a bearing proposals or on the execution of the Work and shall address these issues in the preparation of scopes of work for the Subcontract bid packages. No allowance shall be made for failure of the Construction Manager to obtain such site information prior to submitting their proposal or to include such information in the Subcontract bid packages, and no adjustment to the Construction Manager's Contract amount or stipulated time for completion shall be allowed when due to failure by the Construction Manager to do so.

6.2 The Construction Manager shall be responsible for all lines, levels and measurements of all Work executed under the Contract. The Construction Manager shall verify all dimensions before laying out the Work and will be held responsible for any error resulting from failure to do so. Working from lines and levels established by the property survey or by other Contract Documents, and as shown in relation to the Work, the Construction Manager will establish and maintain bench marks and other dependable markers to set lines and levels for Work at each area of construction and elsewhere on the site as needed to properly locate each element of the entire Project. The Construction Manager shall calculate and measure from the bench marks and dependable markers required dimensions as shown (within recognized tolerances if not otherwise indicated), and shall not scale drawings to determine dimensions. The Construction Manager shall advise Sub-contractors and trades persons performing Work of marked lines and levels provided for their use in layout work. The Construction Manager shall verify layout information shown on drawings as required for the Work.

6.3 The Construction Manager shall be responsible for coordination of the installation of all elements of the Work, including preparation of coordination drawings if required by the Contract Documents or deemed necessary by the Construction Manager for performance of the Work.

6.4 If any encroachments are made by the Construction Manager or any Sub-contractor on any adjacent property, the Construction Manager shall, at the Construction Manager's expense, and within thirty (30) Calendar Days after written notice from the Owner or the Consultant, correct any encroachments and obtain approval from the owner of such adjacent property for any encroachments that cannot be feasibly corrected. The Construction Manager shall not be entitled to any adjustment to the Contract Amount or the Contract Time as a result of any such encroachment or the correction thereof.

ARTICLE 7 - PLANS, DRAWINGS, SPECIFICATIONS AND RECORD DRAWINGS

7.1 Unless otherwise provided in the Contract Documents, the Owner will furnish the Construction Manager free of charge one electronic or reproducible copy of the Drawings and Specifications for execution of the Work. The Construction Manager shall pay for the cost of duplication of all sets required over and above this amount.

7.2 The cost of additional plans, specifications and official contract documents for use by Sub-contractors for bidding and for construction shall be borne by the Construction Manager or by the Sub-contractors. Arrangements for orders and payment for plans, specifications and other contract documents must be made with Lynn Imaging, Lexington, Kentucky (<http://www.ukplanroom.com>) or by phone at 1.800.888.0693 or 859.255.1021) before a set of documents will be issued.

7.3 The Construction Manager shall keep one copy of all Contract Documents, including Drawings, Specifications and Shop Drawings on the site and in good order. A qualified representative of the Construction Manager shall record on these documents, from day to day as Work progresses, all changes and deviations from the Contract Documents. Prior to Substantial Completion, the Construction Manager shall complete and turn over to the Consultant the As-Built drawings, with a digital copy (in PDF format) submitted to the Owner simultaneously. The As-Built drawings shall consist of a set of drawings which indicate all field changes that were made to adapt to field conditions, changes resulting from Change Orders and all concealed and buried installations of piping, conduit and utility services. All buried and concealed items, both inside and outside the facility, shall be accurately located on the As-Built drawings as to depth and in relationship to not less than two permanent features such as interior or exterior wall faces. The As-Built drawings shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in a contrasting color. For any changes or corrections in the Work which are made subsequent to the Substantial Completion Inspection, revisions shall be made to the As-Built drawings and submitted to the Consultant prior to final payment. Approval of the final payment request shall be contingent upon compliance with these provisions.

7.4 All drawings, specifications and copies thereof, furnished by the Consultant to the Owner, are the property of the University of Kentucky. They shall not be used by the Consultant, Construction Manager, or any Sub-contractor or Supplier on any other Project.

ARTICLE 8 - TEMPORARY UTILITIES

8.1 The Construction Manager shall provide and pay for, unless modified in the Special Conditions, all temporary conveniences including, but not limited to, wiring, lighting, power and electrical outlets, heat, water, and sanitary facilities required for construction. In the event the Owner elects to make available, at no cost to the Construction Manager, the electric power required for construction activities, the electric power supplied shall not be utilized as a means to provide temporary heat or for welding.

8.2 The Construction Manager is responsible for paying all utility costs, whether the costs are from an outside utility company or from the University, for utility services used in the course of completing the Work. The Construction Manager shall provide temporary heating, ventilation, telephones, water, electricity, portable gas, lighting for the Work, safety lighting, security lighting, and trash removal/dumpster service for both Construction Manager and Sub-contractor use during the Project. Work and safety lighting shall be provided continuously during working hours. Security lighting shall be provided at all hours of darkness.

ARTICLE 9 - MATERIALS, EQUIPMENT, APPLIANCES, AND EMPLOYEES

9.1 Unless otherwise provided in the Contract Documents, the Construction Manager shall provide and pay for all materials, labor and personnel, tools, equipment, construction equipment and machinery, utilities, supplies, appliances, transportation, taxes, temporary facilities, licenses, permits and all other facilities and incidentals necessary for the furnishing, performance, testing, start-up and the proper execution and completion of the Work safely, without damage to persons and property, and in compliance with all applicable law. The Construction Manager shall furnish, erect, maintain, and remove at the completion of the Contract, all temporary installations as may be required during the construction period.

9.2 Immediately following the execution of each of the Trade Contracts, the Construction Manager shall determine the source of supply for all materials required under that Trade Contract and the length of time required for their delivery, and shall assure that orders are placed for such materials in sufficient time to assure delivery to the site so that such materials are available to be incorporated into the Work when needed to comply with the schedule of Work.

9.3 The Construction Manager shall immediately notify the Consultant in writing of any known problems with the procurement, fabrication or ordering of any materials. Unless changes are approved in writing by the Consultant, the Construction Manager will not be excused for delays in securing materials specified.

9.4 The Construction Manager or Sub-contractors shall not place purchase orders or issue contracts for materials, supplies, equipment and services necessary to complete this Project using the name of the University of Kentucky. All orders placed by the Construction Manager that are related to this Project must use the name of the Construction Manager or Sub-contractor placing the order. The use of the University of Kentucky's name for ordering purposes is strictly prohibited. Payment for all goods and services required for the completion of the Work is the sole responsibility of the Construction Manager. Any invoices received at the University that are related to this Project will be immediately forwarded to the Construction Manager. Copies of these invoices will be made and placed in the Construction Manager's file and proof must be provided that these invoices have been paid in full prior to the processing of the next scheduled application for progress payment.

9.5 The route for delivery of all materials to the Project shall be coordinated with the Owner's Project Manager.

9.6 The Construction Manager shall be responsible for the proper and adequate storage of materials and equipment. Unless otherwise provided in the Contract Documents, all materials shall be of good quality and new. Workmanship and materials supplied and incorporated into this Work shall be of first quality. The Construction Manager, if required, shall furnish satisfactory evidence as to the kind and quality of materials.

9.7 The Construction Manager shall at all times enforce strict discipline and good order among all employees and Sub-contractors. The conduct of all individuals performing Work or operations related to the Work is the responsibility of the Construction Manager. The consumption of alcohol or drugs on the job by any workers is strictly prohibited. Any individual apprehended under the influence of alcohol or drugs on the premises at any time shall be subject to automatic removal from the Project by the Construction Manager, the Consultant or the Owner. Improper conduct of any kind will not be permitted and may result in the offending individual, Sub-contractor or Construction Manager being barred from the Owner's premises. The Construction Manager shall not permit the employment on the Project of any person unfit or not skilled in the Work assigned.

ARTICLE 10 - ROYALTIES AND PATENTS

10.1 The Construction Manager shall pay all royalties and license fees. If a particular process, product or device is specified in the Contract Documents and it is known to be subject to patent rights or copyrights, the existence of such rights shall be disclosed in the Contract Documents and the Construction Manager is responsible for payment of all associated royalties. The Construction Manager hereby agrees to indemnify, defend and hold the Owner, and any subsidiary, parent, or affiliates of the Owner, or other persons or entities designated by the Owner, and their respective directors, officers, agents, employees and designees (collectively, the "Indemnities") harmless from all losses, claims, liabilities, injuries, damages and expenses, including attorneys' fees and legal expenses, that the Indemnities may incur as a result of the Construction Manager's failure to strictly comply with its obligations under this Paragraph 10.1.

ARTICLE 11 - SURVEYS, PERMITS, REGULATIONS, AND STANDARD CODES

11.1 The Owner will furnish only such surveys that are specifically required by the Contract Documents. Approvals, assessments, and easements for permanent structures or permanent changes in existing structures shall be secured and paid for by the Owner, unless otherwise specified. All required utility tap-on fees shall be secured and paid for by the Construction Manager, or included in a Trade Contract, including the Lexington-Fayette Urban County Government (LFUCG) sewer tap-on fee. All construction permits, where required by local ordinances, except excavation permit, shall be obtained by the Construction Manager, but no fee shall be charged to or paid by the Construction Manager as the Owner is exempt from such charges. A Contractor's license fee for doing business in the locale, if applicable, shall be paid for by the Construction Manager.

11.2 All branches of Work shown on the plans and specifications shall be executed in strict compliance with all state and federal regulations and codes, with all national codes, and with the requirements of both ADA and JCAHO when applicable.

11.3 The Contractor, on projects disturbing 1 acre or more, including grading, clearing, excavation, or other earth moving process, shall assure full compliance with the requirements of the KYR10 and shall:

11.3.1 File a Notice of Intent (KPDES Form NOI-SW) with the Kentucky Division of Water and copy the Owner prior to the start of any excavation, grading or site development work.

11.3.2 Implement the Storm Water Pollution Prevention Plan, maintain Best Management Practices (BMP) structures and devices and continuously update the written Storm Water Pollution Prevention Plan.

11.3.3 Inspect and document the condition of runoff controls every 7 days.

11.3.4 Submit a signed Notice of Termination (NOT) form to Kentucky Division of Water after the site has been finally stabilized.

11.3.5 See "Design Guidelines" in the Owners Design Standards 00020S07 Storm Water Information for Consultants and Contractors.

11.3.6 Failure to timely comply with requirements of KPDES shall not be the basis for any additional compensation nor for adjustment of contract time. Any fines or other costs resulting from failure to comply, levied against the Owner will be assessed against the Construction Manager's funds.

11.4 Reference to standards, codes, specifications, and regulations refer to the latest edition of printing in effect at the date of issue shown in the Contract Documents unless another date is implied by the suffix number of the standard

11.5 The Construction Manager shall furnish a final occupancy permit from the proper agency or agencies as required.

11.6 The Construction Manager shall, by provision within each applicable subcontract or by inclusion in the lump sum fee proposed to the Owner, insure the payment of all sales, consumer, use and similar taxes for materials, equipment and supplies incorporated into the Work, by unless otherwise specified in the bid documents.

ARTICLE 12 - PROTECTION OF WORK, PROPERTY, AND PUBLIC

12.1 The Construction Manager shall continuously maintain adequate protection of all Work from damage and shall protect the Owner's property from injury or loss arising in connection with this Contract. Except as otherwise covered by Builder's Risk insurance, the Construction Manager shall pay for any damage, injury, or loss, except such as may be directly due to errors in the Contract Documents or caused by agents or employees of the Owner. The Construction Manager shall adequately protect adjacent property as provided by law and the Contract Documents.

12.2 In an emergency affecting the safety of life, or of the Work, or of adjoining property, the Construction Manager, without special instruction or authorization from the Consultant or the Owner, is obligated to act to prevent such threatened damage, loss or injury.

12.3 The Construction Manager shall maintain fire protection as required by the Kentucky Building Code. Access to the Project site and surrounding buildings for local fire truck access during construction must be maintained. The Construction Manager shall maintain construction to allow access to new, existing or temporarily relocated standpipes, fire hydrant connections and fire alarm communication panels pursuant to Section 3018.8 of the Kentucky Building Code. If the Construction Manager utilizes the Owner's fire protection equipment, the Construction Manager shall replace any such materials lost, consumed or misplaced during the Contract period. The Construction Manager is responsible for any false alarms caused by dust created in the Work area or dust traveling to areas beyond the Work area due to inadequate dust protection barriers. Should there be a need for any existing or newly installed fire alarm system, or parts of a system that requires service, to be removed from service or disconnected, prior approval must be obtained from the Owner

and the Construction Manager shall immediately provide alternate protection such as a fire watch until such systems are returned to full normal operations. When work or service is completed on a disabled fire alarm system, the Owner shall be immediately notified so the system can be placed in service.

12.4 The Construction Manager and Sub-contractors are responsible for the security of their own materials, tools and equipment at the Project site.

12.5 The Construction Manager shall provide to the Owner's Project Manager a key to Construction Manager's field office or job trailer.

ARTICLE 13 - BLASTING

13.1 Blasting is not allowed unless permission is granted in the Special Conditions. Should blasting be allowed by the Special Conditions, it shall be completed in accordance with all laws, regulations, ordinances and instructions contained in the Special Conditions.

ARTICLE 14 - CONSTRUCTION AND SAFETY DEVICES

14.1 The Construction Manager shall provide safety controls for protection of the life and health of employees and visitors. The Construction Manager will utilize precautionary methods for the prevention of damage to property, materials, supplies, and equipment, and for avoidance of work interruptions in the performance of this Contract. In order to provide such safety control, the Construction Manager shall comply with all pertinent provisions of the Kentucky Fire Prevention Code, Kentucky Building Code, Kentucky Labor Cabinet's Division of Occupational Safety and Health Program Construction Standards and Federal Occupational Safety and Health (Construction) Standards that are in effect at the time the Contract is entered into and during the period in which the Contract is to be performed.

14.2 The Construction Manager shall provide a written safety program which includes all pertinent written specialty standards such as, but not limited to, Control of Hazardous Energy Sources (Lockout/Tagout), Hazard Communications Program, First Aid, Blood Borne Pathogen Program, Respirator Use Program and Hearing Conservation Program. The Construction Manager shall require all Sub-contractors to have an effective written safety program or be required to follow the Construction Manager's written safety program.

14.3 The Construction Manager shall maintain an accurate record of and shall report to Kentucky Labor Cabinet's Division of Occupational Safety and Health in the manner and on the forms prescribed by that Division, exposure data and all accidents resulting in death, traumatic injury, or occupational disease. The Construction Manager shall maintain an accurate record of and shall report to the Owner's Project Manager, any damage to property, materials, supplies, or equipment incident to Work under this Contract.

14.4 The Kentucky Labor Cabinet's Division of Occupational Safety and Health may notify the Construction Manager of any noncompliance with the foregoing provisions. The Construction Manager shall, upon receipt of such notice, immediately correct the cited conditions. Notice delivered to the Construction Manager or the Construction Manager's representative at the site of the Work shall be deemed sufficient for this purpose. If the Construction Manager fails or refuses to comply promptly, the Owner may issue an order stopping all or part of the Work until satisfactory corrective action has been taken. Failure or refusal to comply with the order will be grounds for reducing or stopping all payments due under the Contract to the Construction Manager. No part of the construction time lost due to any such stop order shall be cause for, or the subject of a claim for, extension of time or for additional costs or damages by the Construction Manager.

14.5 The Construction Manager or any Sub-contractor shall immediately contact the University of Kentucky's Department of Occupational Health and Safety through the Owner's Project Manager should they be selected for an inspection by the Kentucky Occupational Safety and Health Compliance Division.

14.6 Compliance with the provisions of the foregoing sections by Sub-contractors shall be the responsibility of the Construction Manager.

14.7 Nothing in the provisions of this Article 14 shall prohibit the U.S. Department of Labor or the Kentucky Department of Labor Division of Occupational Safety and Health from enforcing pertinent occupational safety and health standards as authorized under Federal or State Occupational Safety and Health Standards.

14.8 The Construction Manager shall take all necessary precautions for the safety of employees on the Work, and shall comply with all applicable provisions of federal, state, and municipal safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to the premises where the Work is being performed. If the Construction Manager or any Sub-contractor has questions related to the health or safety required by their written safety program, they should contact the Kentucky Labor Cabinet Occupational Safety and Health Program Division of Education and Training. The Construction Manager shall designate a responsible member of the on-site work force as the safety officer and shall report to the Consultant and to the Owner the name of the person selected. The duties of the safety officer include the enforcement of safety regulations.

ARTICLE 15 - HAZARDOUS MATERIALS

15.1 If the Construction Manager encounters material reasonably believed to be or suspected to be asbestos containing material, lead, polychlorinated biphenyls (PCBs), fluorescent light bulbs and ballasts, mercury or other hazardous material, the following procedures must be followed:

15.1.1 The Construction Manager shall immediately stop work in the affected area and notify the Owner's Project Manager. The Owner's Project Manager will contact the Owner's Environmental Health and Safety unit to arrange for collection of samples, review of existing data, or other testing necessary to confirm the presence of hazardous materials. The Owner's Project Manager will notify the Construction Manager in writing of the results. Until that notification is received, the Work must not continue in the affected area.

15.1.2 If the material is confirmed to be asbestos, lead, polychlorinated biphenyls (PCBs), fluorescent light bulbs and ballasts, mercury or other hazardous material, the Owner will take appropriate action to remove the material before the Construction Manager can continue Work in the affected area.

15.1.3 The Construction Manager shall not be required to perform any Work related to asbestos, lead, polychlorinated biphenyls, or other hazardous material. The Construction Manager is advised that certain classes of building materials (thermal system insulation, sprayed or troweled surfacing materials, and resilient flooring) installed before 1981 are required by law to be treated as asbestos containing until proven otherwise. These presumed asbestos containing materials must not be disturbed without confirmation from the Owner that asbestos is not present.

15.2 The Owner, the Construction Manager, and Sub-contractors will be under the requirements of the OSHA Hazard Communication Standard (29) CFR 1910.1200. The Construction Manager and Sub-contractors must provide their own written Hazard Communication Program. The Hazard Communication Standard must include: (1) A list of the hazardous chemicals to which the Construction Manager's employees may be exposed; (2) Statement of the measures that Construction Manager's employees and Sub-contractors may take to lessen the possibility of exposure to the hazardous materials; (3) The location of and access to the Material Safety Data Sheets (MSDS's) related to the hazardous chemicals located in the Work area; (4) Procedures that the Construction Manager's employees and Sub-contractors are to follow if they are exposed to hazardous chemicals above the Permissible Exposure Limit (PEL). Material Safety Data Sheets may be reviewed upon request by the Construction Manager or any Sub-contractor as they pertain to the Work areas of the Project. Photocopies of the MSDS's may be made by Construction Manager at its expense.

15.3 The Construction Manager and Sub-contractors shall provide the Owner with a list of any hazardous materials that will be used on the job site. The Construction Manager and Sub-contractors shall provide the Owner with copies of Material Data Sheets for all such materials to be used.

15.4 It is the policy of the Owner that PCB containing equipment will be treated by the Construction Manager and the Owner in a manner that conforms to the intent of all applicable laws and regulations (primarily 40 CFR Part 761). The following procedures shall be followed by the Construction Manager and Sub-

contractors while present on the Owner's Project or other property: (1) Only authorized, trained personnel may inspect, repair, or maintain PCB transformers; and (2) No combustible materials may be stored within a PCB transformer room or within five meters of a PCB transformer. Such materials include, but are not limited to, paints, solvents, plastic, paper, and wood. The Construction Manager shall not use rooms containing PCB transformers for storage rooms, staging areas, job site offices or break rooms. Violation of this policy may be grounds for dismissal of the offending Construction Manager and/or Sub-contractor from the Project. All PCB transformers at the University of Kentucky are identified by a PCB label as defined in federal regulations. If the Construction Manager should have a question as to the location of a PCB transformer, it should contact the Owner's Project Manager.

15.5 The Construction Manager shall ensure that NO asbestos-containing materials (including but not limited to: drywall, joint compound, roof mastic or floor tile adhesive) will be install on any University project without prior written approval of the University's Environmental Health and Safety Division. Additionally, the Construction Manager shall submit MSDS sheets and have prior approval before installing any materials that contains hazardous substances or could pose an environmental hazard. If any environmental hazardous materials are installed without written approval of the University, the Construction Manager will be responsible for all material replacement cost, all removal and all other associated damages. Any materials removed shall be taken out in accordance with all applicable federal, state and local regulations.

ARTICLE 16 - INSPECTION OF WORK

16.1 Inspections, tests, measurements or other acts of the Consultant are for the sole purpose of assisting the Consultant in determining if the Work, materials, rate of progress, and quantities comply with the Contract Documents. These acts or functions shall not relieve the Construction Manager from performing the Work in full compliance with the Contract Documents, nor relieve the Construction Manager from any of the responsibility for the Work assigned to it by the Contract Documents. No inspection by the Consultant shall constitute or imply acceptance. Approval of material is general and shall not constitute waiver of the Owner's right to demand full compliance with Contract Documents.

16.2 All Work completed and all materials incorporated for the Project are subject to inspection by the Owner, the Consultant or their representatives to determine conformance with the Contract Documents. The Owner, Consultant and their representatives shall at all times have access to the Work whenever it is in preparation or progress. The Construction Manager shall provide, at no additional cost to the Owner, any facilities necessary for sufficient and safe access to the Work to complete any inspections required. The Consultant shall be given timely notification in order to arrange for the proper inspections to be performed on any Work outside of the normal working day or week. If the Consultant provides the Construction Manager with a list of construction milestones that require inspection, the Construction Manager shall provide the Consultant with at least five (5) Business Days written notice prior to the commencement of Work with respect to such milestone in order to permit the Consultant time to coordinate an inspection of the commencement of the applicable Work.

16.2.1 Normal Work hours are defined as a period between 7:00 a.m. and 5:00 p.m. Monday through Friday. The Construction Manager shall notify the Owner's Project Manager at least one working day prior to performance of any Work for permission to do any Work during non-normal Work hours.

16.3 If the Specifications, the Consultant's instructions, laws, ordinances, or any public authority require any Work to be specially inspected, tested or approved, the Construction Manager shall give the Consultant timely notice of the readiness of the Work for inspection. The Consultant shall promptly make all required inspections. If any portion of the Work should be covered contrary to the request of the Consultant, or to the requirements specifically expressed in the Contract Documents, the Work must be uncovered for inspection and observation and shall be uncovered and replaced at the Construction Manager's expense.

16.4 If any other portion of the Work has been covered, which the Consultant has not specifically requested to observe prior to being covered, the Consultant, with the Owner's approval, may request to see such Work and it shall be uncovered by the Construction Manager. If such Work is found to be in accordance with the Contract Documents, the cost of uncovering and replacement shall be charged to the Owner by appropriate Change

Order. If such uncovered Work is not in accordance with the Contract Documents, the Construction Manager shall pay all costs for uncovering and replacement of such Work.

ARTICLE 17 - SUPERINTENDENT - SUPERVISION

17.1 The Construction Manager shall completely and thoroughly direct and superintend the Work in accordance with the highest standard of care for the Construction Manager's profession so as to ensure expeditious, workmanlike performance in accordance with requirements of the Contract Documents. Except as otherwise dictated by specific requirements of the Contract Documents, the Construction Manager shall be solely responsible for and have control over all construction means, methods, techniques, sequences and procedures. The Construction Manager shall be responsible for the acts and omissions of all Sub-contractors and persons directly or indirectly employed by the Construction Manager in the completion of the Work. The Construction Manager shall be responsible for coordinating and scheduling all portions of the Work unless the Contract Documents give other specific instructions. The Construction Manager shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by the activities of the Consultant in the administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Construction Manager.

17.2 The Construction Manager shall have a competent superintendent on the Project site at all times during the process of the Work. The superintendent shall have authority to act on the Construction Manager's behalf with regard to all aspects of performance of this Contract. The superintendent shall have such assistants with individual specialized competencies as may be necessary to fully understand and oversee all aspects of the Work. The Construction Manager shall also provide administrative, supervisory and coordinating personnel required to fully perform the Work and for interfacing the Work with other work of the Project. The superintendent and all assistants shall be physically fit for their work and capable of going to all locations where Work is being performed. A communication given to the superintendent shall be binding on the Construction Manager. Immediately after the award of Contract, the Construction Manager shall submit to the Consultant a list of Construction Manager's employees and consultants, including names, positions held, addresses, telephone numbers and emergency contact numbers.

17.3 The superintendent assigned shall not be changed except under the following circumstances: (1) Where the superintendent ceases to be employed by the Construction Manager, in which case the Construction Manager shall give timely written notice to the Owner of the impending change of the superintendent and a reasonable explanation for the change; or (2) Where the Owner or the Consultant have reasonable grounds for dissatisfaction with the performance of the superintendent and give written notice to the Construction Manager of the grounds. In either case, the Construction Manager shall obtain prior written approval from the Owner of the qualifications of the proposed replacement superintendent. Such prior approval will not be unreasonably withheld.

17.4 If the Owner or Consultant determines that the superintendent is not performing, or is incompetent to perform the required Work, the Owner may direct the Construction Manager to remove the superintendent from the Project and replace the superintendent with an employee who has the necessary expertise and skills to satisfactorily perform the Work.

ARTICLE 18 - CHANGES IN THE WORK

18.1 The Owner, at any time after execution of the Contract, may make changes within the general scope of the Contract or issue additional instructions, require additional Work, or direct the deletion of Work. The Owner's right to make changes shall not invalidate the Contract or relieve the Construction Manager of any obligations under the Contract Documents. All such changes to the Work shall be authorized in writing by Change Order and shall be executed under the conditions of the Contract Document. Any adjustment of the Contract Amount or Time of Completion, as may be appropriate, shall be made only at the time of ordering such change. Change order proposals based on a reservation of rights, whether for additional compensation to be determined at a later date or for an extension of time to be determined at a later date, will not be considered for approval and shall be returned to the Construction Manager without action.

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

18.2.1 By unit prices named in the Contract or additional unit prices subsequently agreed upon;

18.2.2 By agreement on a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

18.2.3 By an amount agreed upon by the Construction Manager and the Owner as a mutually acceptable fixed or percentage fee.

18.3 All lump sum proposals shall include a detailed cost breakdown satisfactory to the Consultant and to the Owner for each component of Work indicating both labor and material costs. In computing labor costs, the hourly labor rates shall not exceed the combined amount for base rate plus fringe benefits stated in the Prevailing Wage Determination applicable to the Project unless some other mutually agreeable combined hourly labor rate plus fringe benefits is arrived at by negotiation with the Owner based on presentation of acceptable documentation by the CM that the published rate would impose an unreasonable burden on the CM and/or Sub-contractor(s). For the purposes of this Article, the term "fringe benefits" shall mean those funds transferred irrevocably to a third party for payment/distribution. In addition, there may be added by the Sub-contractor an amount agreed upon, but not to exceed ten percent (10%) of the actual cost, for overhead and profit. The CM may also add a mark-up only for bonds and insurance and that mark-up shall not exceed the combined percentage for bonds and insurance stated in the CM's "Financial Proposal Summary". This cost breakdown shall be submitted to the Consultant promptly and with a goal of seven (7) Calendar Days or less after receipt of the proposal request.

18.3.1 If changes to any of the Trade Contracts are authorized and approved by the Owner, the contract between the CM and the Owner will be adjusted such that the total sum of the contract between the CM and the Owner always equals the sum of the executed Trade Contracts and purchase orders plus or minus the sum of all change orders and purchase orders that have been approved by the Owner, plus the previously established base fee for CM services.

18.4 If none of the above methods are mutually agreed upon or if the Construction Manager does not respond promptly, a change may be made by unilateral determination by the Owner and/or the Consultant of reasonable costs or savings attributable to the change, including a reasonable allowance for overhead and profit. If this method is utilized, the Construction Manager shall promptly proceed with the Work involved in the change upon receipt of a written order signed by the Owner. In such case, the Construction Manager shall keep and present an itemized accounting of labor, equipment, material and other costs, in such form as may be prescribed by the Consultant.

18.5 In all cases where Change Orders are determined by unit prices set forth in the Contract Documents, no amount is to be added for additional overhead and profit.

18.6 The Construction Manager shall keep and present in such form as the Consultant may direct, a correct account of all items comprising the net cost of such Work, together with vouchers. The determination of the Consultant and/or the Owner shall be final upon all questions of the amount and cost of extra Work and changes in the Work, and it shall include in such cost, the cost to the Construction Manager of all materials used, the cost of all labor (including social security, old age and unemployment insurance, fringe benefits to which the employee is entitled, and Workers Compensation insurance), and the fair rental of all machinery used upon the extra Work, for the period of such use, which was upon the Work before or which shall be otherwise required by or used upon the Work before or after the extra Work is done. If the extra Work requires the use of machinery not already on the Project site, or to be otherwise used upon the Work, then the cost of transportation of such machinery to and from the Project site shall be added to the fair rental value. Transportation costs shall not be allowable for distances exceeding one hundred (100) miles.

18.7 The Construction Manager shall not include or allow to be included in the cost of change in the Work any cost or rental of small tools, or any portion of the time of the Construction Manager or the superintendent, or any allowance for the use of capital, or for the cost of insurance or bond premium or any actual or anticipated

profit, or job or office overhead. These items are considered as being covered under the added amount for general overhead addressed in Article 18.3

18.8 The Owner will not pay claims made for lost opportunities, claims made for lost production or production inefficiencies or claims made that are formula based.

18.9 Pending final determination of value, partial payments on account of changes in the Work may be made on recommendation of the Consultant. All Change Orders shall be in full payment and final settlement of all claims for direct, indirect and consequential costs, including all items covered and affected. Any such claim not presented by the Construction Manager for inclusion in the Change Order shall be waived.

18.10 The Consultant may authorize minor changes in the Work which do not involve additional cost or extension of the Contract Time, and which are not inconsistent with the intent of the Contract Documents. Such changes shall be made by an ASI issued by the Consultant, and shall be binding on the Owner and the Construction Manager. The Construction Manager shall carry out such orders promptly. If the Construction Manager should claim that an ASI involves additional cost or delay to the completion of the Work, the Construction Manager shall give the Consultant written notice thereof within ten (10) Calendar Days after receipt of the written ASI. If this notification does not occur, the Construction Manager shall be deemed to have waived any right to claim or adjustment to the contract sum or to the contract completion time.

18.10.1 If the Construction Manager claims that any instructions by the Consultant involve additional cost or time extension, the Construction Manager shall give the Consultant written notice thereof within ten (10) Calendar Days after the receipt of such instructions and before proceeding to execute the change in Work. The written notice shall state the date, circumstances, whether a time extension will be requested, and the source of the order that the Construction Manager regards as a Change Order. Unless the Construction Manager acts in accordance with this procedure, any oral order shall not be treated as a change and the Construction Manager hereby waives any claim for an increase of the Contract amount or extension of the contract time.

18.11 Requests for extension of time related to changes in the Work shall be submitted in accordance with the requirements of Article 21 of these General Conditions.

ARTICLE 19 - RULES AND MEASUREMENTS FOR EXCAVATION

19.1 If applicable, the following Rules and Measurements shall apply to the use of Unit Prices for the excavation portion of the Work:

19.1.1 Except as provided in this Article 19 for arbitrary measurements, the quantity of excavation shall be its in-place volume before removal.

19.1.2 No allowance will be made for excavating additional material of any nature taken out for the convenience of the Construction Manager beyond the quantity computed under these "Rules and Measurements."

19.1.3 The quantities of excavation shall be computed from instrument readings taken by the Consultant's representative in vertical cross sections located at such intervals that will assure accuracy.

19.1.4 "Trench Excavation" for pipes shall arbitrarily be assumed to be two feet (2') wider than the outside diameter of the pipe barrel and with sides vertical.

19.1.5 The quantities shall be computed from plan size, or if there are no drawings, from actual measurements of the Work in place.

19.1.6 Each unit price shall cover, among other things, engineering (surveying) costs and keeping excavating dry.

19.1.7 Earth excavation for structures will be measured between the vertical planes passing 18 inches beyond the outside of the footings and from the surface of the ground to the neat lines of the bottom of the structure.

19.1.8 Rock excavation for structures will be measured between the vertical planes passing 18 inches beyond the outside of the footings and from the surfaces of the rock to the neat lines of the bottoms of the structures or the actual elevation of the rock ledge.

19.1.9 Rock excavation for pipelines trenches, unless otherwise provided for in the Specifications, shall be measured as follows: An arbitrary width of 18 inches plus the nominal diameter of the pipe multiplied by the depth from the surface the rock to six (6) inches below the invert for pipe 24 inches in diameter or less and eight (8) inches below the invert for all pipe greater than 24 inches in diameter. No additional compensation will be allowed for excavation for bell holes, gates or other purposes. The measurement of rock excavation for manholes shall be in accordance with Section 19.1.8 above.

19.1.10 Unclassified excavation shall be measured in the same manner as earth excavation.

ARTICLE 20 - CONCEALED CONDITIONS

20.1 The Contract Drawings show the approximate location of the existing and new utility lines. These lines have been identified and located as accurately as possible using available information. The Construction Manager is responsible for verifying all actual locations. If utilities require relocation or rerouting that is not shown or indicated to be relocated or rerouted, the Construction Manager shall contact and cooperate with the Consultant to make the required adjustments. Any request for change in the Contract Amount by the Construction Manager shall be made pursuant to Article 18 of the General Conditions.

20.2 If any charted or uncharted utility service is interrupted by activities of the Construction Manager or the Construction Manager's Sub-contractor(s) for any reason, the Construction Manager shall work continuously to restore service to the satisfaction of the Owner.

20.2.1 If any charted utility service, or any uncharted utility service the existence of which could have been discovered by careful examination and investigation of the site of the Work by the Construction Manager, is interrupted by activities of the Construction Manager or the Construction Manager's Sub-contractor(s) for any reason, the entire cost to restore service to the satisfaction of the Owner shall be paid by the Construction Manager. Should the Construction Manager fail to proceed with appropriate repairs in an expedient manner, the Owner reserves the right to have the work/repairs completed and the cost of such work/repairs deducted from the monies due or to become due to the Construction Manager pursuant to Article 22 of the General Conditions.

20.3 The Construction Manager shall promptly, but in no case more than ten (10) Calendar Days from the time of discovery, and before the conditions are disturbed, notify Consultant in writing of:

20.3.1 Subsurface or latent physical conditions or any condition encountered at the site which differ materially from those indicated in the Contract Documents and which were not known by Construction Manager or could not have been discovered by careful examination and investigation of the site of the proposed Work;

20.3.2 Unknown and unexpected physical conditions at the site, of an unusual nature, differing materially from those ordinarily encountered in the locale or generally recognized as inherent in the Work provided for in this Contract or,

20.3.3 Concealed or unknown conditions in an existing structure which are at variance with the conditions indicated by the Contract Documents, which are of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the Work provided for in this Contract, and which were not known by the Construction Manager and could not have been discovered by careful examination and investigation of the site of the Work.

20.4 The Consultant shall promptly investigate the conditions discovered. If the Consultant finds that conditions, which are materially different from those ordinarily encountered and generally recognized as inherent in the Work provided for in this Contract, were not known by the Construction Manager, and could not have been discovered by careful examination and investigation of the site of the Work, have caused or would

cause a material increase or decrease in the Construction Manager's cost of construction or the time required for performance of any part of the Work under this contract, the Consultant will recommend and the Owner will make an equitable adjustment in the Contract Amount and/or the time allotted for performance in the Contract Documents. Failure by the Construction Manager to provide written notice to the Owner of such claims for additional compensation or time for performance within ten (10) Calendar Days of discovery of such conditions shall constitute a waiver by the Construction Manager of the right to make such claims. The Owner will not pay claims made for lost opportunities, claims made for lost production or production inefficiencies or claims made that are formula based.

20.5 If the Consultant determines that changed conditions do not exist or are not materially different and no adjustment in the Contract Amount or time is warranted, the Construction Manager shall continue performance of the Contract as directed by the Consultant. No claim by the Construction Manager under this clause shall be allowed unless the required written notice is given and the Consultant is given adequate opportunity to investigate the conditions encountered prior to disturbance. The failure of the Construction Manager to give the Consultant proper notice of a differing site condition shall not affect the Owner's right to an equitable adjustment of the contract price or time if there is a decrease in the Contract Amount or time required to perform the Work.

ARTICLE 21 - DELAYS AND EXTENSION OF TIME

21.1 It is agreed that time is of essence for each and every portion of this Contract and where additional time is allowed for the completion of the Work or any part of the Work under this Contract, the new time limit fixed by such time extension shall be of the essence of this Contract. An extension of time shall not be cause for extra compensation under this Contract, except as set forth in Article 21.10 below.

21.2 The Construction Manager will, subject to the provisions of Articles 21.7, 21.8 and 21.9 below, be granted an extension of time and/or relief from liquidated damages when the delay in completion of the Work is due to:

21.2.1 Any preference, priority, or allocation order duly issued by the government;

21.2.2 Unforeseeable causes beyond the control and without the fault or negligence of the Construction Manager including, but not limited to, acts of God, or of the public enemy, acts of the Owner, acts of another contractor in the performance of a contract with the Owner, floods, epidemics, quarantine restrictions, strikes, and freight embargoes.

21.2.2.1 For such delays which stop all work on the Project for thirty (30) Calendar Days or more, the Construction Manager shall be authorized at its discretion to remove its people from the site and return when the normal progress of the work may continue.

21.2.3 Regardless of the cause of a delay, the Construction Manager shall expend all reasonable effort to mitigate the impact of any delay.

21.2.4 Requests for additional time due to delays in transportation or due to failures of suppliers shall not be considered for approval.

21.3 Requests for extensions of time and/or relief from liquidated damages, except for weather related claims, shall be made in writing not later than ten (10) Calendar Days after the beginning of the delay. Requests for extension of time or relief from liquidated damages shall be stated in numbers of whole Calendar Days.

21.4 Except as otherwise provided in the Contract Documents, extensions of the contractually required completion dates may be granted for unusually bad weather on the Project. Unusually bad weather as used herein means daily temperature or precipitation that exceeds the normal weather recorded and expected for the locality and/or the season or seasons of the year. For the purposes of this contract, it is mutually agreed that the following chart accurately defines the number of days in each month on which bad weather can reasonably be anticipated to impact weather dependent construction operations, and the Construction Manager shall anticipate this normal seasonal weather in the development of the Project baseline schedule.

Mean Number of Days When	Jan.	Feb	Mar.	Apr	May	Jun.	Jul.	Aug	Sep	Oct	Nov.	Dec.
Max Temp 32° or Below	9	6	1	0	0	0	0	0	0	0	1	5
Precip. Is 0.10 Inch or Greater	7	6	9	7	8	8	8	6	5	5	7	7

For the purpose of this Contract, “unusually bad weather” shall be interpreted as either 1) those days in a given month on which rainfall was 0.10 inch or more that exceed the number of days shown in the row for “Precip” or 2) those days in a given month on which maximum temperature was 32 degrees F or below that exceed the number of days shown in the row for “Max Temp”, whichever is greater.

21.4.1 Requests for extension of time due to unusually bad weather that could not reasonably have been anticipated at the time of execution of the Contract shall be made in writing not later than the tenth calendar day of the month following the month in which the delay occurred.

21.4.2 Requests for an extension of time due to unusually bad weather shall be considered for approval only if it is shown that a) the unusual weather event delayed work on a specific weather dependent activity or activities that had been planned to be underway on the date(s) on which the weather event occurred, as shown in the most recent update to the Project schedule that had been submitted to the Owner prior to the date of the event, and b) only if the delay to that activity or activities is shown to be the proximate cause of a corresponding delay to the contractually required completion dates for the Project shown in the most recent update to the Project schedule. The actual dates on which the delay(s) occurred must be stated and the specific activities that were directly impacted must be identified. In the event of concurrent delays, only those activities actually impacting contractually required completion dates will be considered in evaluating the merit of a delay request. Time extensions will not be considered if such adjustments do not exceed the total or remaining “float” associated with the impacted activities at the time of delay as shown in the most recent update to the Project schedule, nor for concurrent delays not caused by the Owner.

21.4.3 In anticipation of the possibility of delay due to unusually bad weather, the Construction Manager shall identify those activities in the baseline schedules, and those activities subsequently added to updated schedules, that might reasonably be expected to be delayed by such weather.

21.4.4 Delays caused by unusually bad weather shall be incorporated in the Project schedule when the schedule is next updated by showing actual dates and/or percent complete for those activities that were impacted by the unusually bad weather as well as the effects of any effort to mitigate such delays. When claims are submitted for time extensions resulting from more than one occurrence of unusually bad weather during a month, the Project schedule shall be updated to reflect such separate events sequentially so that the impact of each subsequent occurrence is shown on an adjusted Project schedule that includes all prior claims for additional time.

21.5 In addition to the requirements of Article 21.7 and Article 21.8 below, any request for an extension of time for strikes or lockouts shall be supported by a written statement of facts concerning the strike including, but not limited to, the dates, the craft(s) affected, the reason for the strike, efforts to resolve the dispute, and efforts to minimize the impact of the strike on the Project.

21.6 Approval of time extensions for changes in the Work will depend upon the extent, if any, to which the changes cause delay in the completion of the various elements of construction. The Change Order granting the time extension may provide that the Contract Time will be extended only for those specific elements so delayed and that other Work will not be altered.

21.7 The Contract Time will only be adjusted for causes specified above. Extensions of time will only be approved if the Construction Manager provides justification supported by the Project schedule or other acceptable data that 1) such changes are, in fact, on the critical path and extend the contractually required completion dates, and 2) the Construction Manager has expended all reasonable effort to minimize the impact of such changes on the construction schedule. No additional extension of time will be granted subsequently for claims having the basis in previously approved extensions of time.

21.8 In support of requests for an extension of time not caused by unusual inclement weather, and concurrently with the submittal of any such request, the Construction Manager shall submit to the Consultant and the Owner a written impact analysis showing the influence of each such event on contractually required completion dates as shown in the updated Project schedule most recently submitted to the Owner prior to the event. The analysis shall include a partial network diagram showing a sequence of new or revised activities and/or durations that are proposed to be added to the existing schedule including related logic (a “fragnet”). This impact analysis and the fragnet shall include the new activities and/or activity revisions proposed to be added to the existing schedule and shall demonstrate the claimed impact on the critical path and the contractually required completion dates. The Construction Manager will not be granted an extension of time and/or relief from liquidated damages when the delay to completion of the work is attributable to, within the control of, or due to the fault, negligence, acts, or omissions of the Construction Manager and/or the Construction Manager’s contractors, subcontractors, suppliers, or their respective employees and agents. Time extensions will not be considered in the event such adjustments do not exceed the total or remaining “float” associated with the impacted activities at the time of delay, nor for concurrent delays not caused by the Owner. In the event of concurrent delays, only that event actually impacting contractually required completion dates will be considered in adjusting the schedule and evaluating the merit of a delay claim. Requests for an extension of time which are not supported by this information shall not be considered for approval.

21.9 Approved extensions of time not caused by unusual inclement weather shall be incorporated in a revised schedule at the time of approval. No subsequent requests for time extension will be considered unless all previous approved time extensions have been incorporated in the Project schedule on which the requests are based.

21.10 Except as provided for in Article 21.10.1 through 21.10.3 below, no payment or compensation shall be made to the Construction Manager and extensions of the time fixed for completion of the Contract shall be the Construction Manager’s sole remedy for any and all delays, hindrances, obstructions or impacts in the orderly progress of the Work.

21.10.1 In addition to the provisions of Articles 18.3 and 18.3.1 above, and subject to the requirements of Article 21.8 and 21.8.1 above, if the Owner orders changes to the scope of Work for the Project that extend the then current contractually required completion dates of the Project, the Construction Manager shall be entitled to reimbursement for job site, general conditions and staffing costs associated with such delay.

21.10.2 If delays, hindrances, impacts or obstructions of the Construction Manager’s performance of the Contract are in whole or in part within the control of the Owner and, subject to the requirements of Article 21.8 and 21.8.1, extend contractually required completion dates of the Project, the Construction Manager shall be entitled to reimbursement for job site, general conditions and staffing costs for that portion of the costs caused by acts or omissions of the Owner.

21.10.3 Such reimbursements shall not include consequential or similar damages, exemplary damages, damages based on unjust enrichment theory, formula based delay claims, or any element of home office overhead.

ARTICLE 22 - CORRECTION OF WORK BEFORE FINAL PAYMENT

22.1 The Construction Manager shall promptly remove from the site and replace any material and/or correct any Work found by the Consultant to be defective or that fails to conform to the requirements of the Contract, whether incorporated in the Work or not, and whether observed before or after Substantial or Final Completion. The Construction Manager shall bear all costs of removing, replacing or correcting such Work or material

including the cost of additional professional services necessary, and the cost of repairing or replacing all Work of separate contractors damaged by such removal or replacement.

22.2 The Consultant will notify the Construction Manager and the Owner immediately upon its knowledge that additional services will be necessary. The Owner may consent to accept such nonconforming Work and materials with an appropriate adjustment in the Contract Amount. Otherwise, the Construction Manager shall promptly replace and re-execute the Work in accordance with the Contract Documents and without expense to the Owner and shall bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement. If the Construction Manager fails to commence and continue to correct non-conforming Work within a reasonable time as determined by the Consultant, the Owner may without limitation of other rights available to the Owner and without prejudice to other remedies, take any necessary action to make the necessary corrections. If the Owner makes required corrections for non conforming Work or materials, a Change Order will be issued reflecting an equitable deduction from the Contract Amount. This amount will be deducted from payments due to the Construction Manager or, if no additional payments are due, Construction Manager or the Construction Manager's surety shall be responsible for payment of this amount.

ARTICLE 23 - CORRECTION OF WORK AFTER FINAL PAYMENT

23.1 Neither the final certificate of payment nor any provisions in the Contract Documents shall relieve the Construction Manager of responsibility for materials and equipment incorporated into the Work that fails to meet specification requirements, or for the use of faulty materials or poor quality workmanship. If within one year after the date of Substantial Completion of the Work or designated portion thereof, any of the Work is found to be defective or not in accordance with the requirements of the Contract Documents, the Construction Manager shall correct it promptly after receipt of written notice from the Owner to do so. The Construction Manager shall correct any defects due to these conditions and pay for any damage to other Work resulting from their use. Nothing contained in this clause shall be construed to establish a period of limitation with respect to any obligation of the Construction Manager under the Contract including, but not limited to, warranties. The obligation of the Construction Manager under this section shall be in addition to and not in limitation of any obligations imposed by special guarantees or warranties required by the Contract, given by the Construction Manager, or otherwise recognized or prescribed by law.

23.2 In addition to being responsible for correcting the Work and removing any non-conforming Work or materials from the job site, the Construction Manager shall bear all other costs of bringing the affected Work into compliance with the Contract requirements. This includes costs of any required additional testing and inspection services, Consultant's services, and any resulting damages to other property or to work of other contractors or of the Owner.

23.3 If the Construction Manager fails to correct nonconforming Work within a reasonable time as determined by the Consultant, the Owner may take necessary actions to make the necessary corrections. If the Owner makes required corrections for nonconforming Work or materials after Final Payment to the Construction Manager, the Owner shall be entitled to recover all amounts for such corrections, including costs and attorney's fees, from Construction Manager or surety.

ARTICLE 24 - TERMINATION OF CONTRACT FOR CONVENIENCE OF OWNER

24.1 The Owner, by written notice to the Construction Manager, may terminate this Contract in whole or in part when it is in the interest of the Owner, at the sole discretion of the Owner. In such case, the Construction Manager shall be paid for all Work in place and a reasonable allowance for profit and overhead on Work done, provided that such payments shall not exceed the total Contract price as reduced by the value of the Work as yet not completed. The Construction Manager shall not be entitled to profit and overhead on Work not performed.

ARTICLE 25- OWNER'S RIGHT TO STOP WORK

25.1 If the Construction Manager fails to correct defective Work as required, or persistently fails to carry out the Work in accordance with the Contract Documents, the Owner by written notice may order the Construction Manager to stop the Work or any portion of the Work until the cause for the order has been eliminated to the satisfaction of the Owner. The Consultant may stop Work without written notice for 24 hours

whenever in its professional opinion such action is necessary or advisable to insure conformity with the Contract Documents. The Construction Manager shall not be entitled to an adjustment in the Contract Time or Amount under this clause in the event such stoppages are determined to be the fault of the Construction Manager or its Sub-contractor(s). The right of the Owner or Consultant to stop Work shall not give rise to a duty on the part of the Owner or Consultant to exercise this right for the benefit of the Construction Manager or others.

ARTICLE 26 -TERMINATION OF CONTRACT FOR DEFAULT ACTION OF CONSTRUCTION MANAGER

26.1 In addition to its rights under Articles 24 and 25, the Owner may terminate the contract upon the occurrence of any one or more of the following events:

26.1.1 If the Construction Manager refuses or fails to prosecute the Work (or any separable part thereof) with such diligence as will insure its completion within the agreed upon time; or if the Construction Manager fails to complete the Work within such time;

26.1.2 If the Construction Manager is adjudged a bankrupt or insolvent, or makes a general assignment for the benefit of creditors, or if the Construction Manager or a third party files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws concerning the Construction Manager, or if a trustee or receiver is appointed for the Construction Manager or for any of the Construction Manager's property on account of the Construction Manager's insolvency, and the Construction Manager or its successor in interest does not provide adequate assurance of future performance in accordance with the Contract within ten (10) days of receipt of a request for assurance from the Owner;

26.1.3 If the Construction Manager repeatedly fails to supply sufficient qualified supervision of the work, or repeatedly fails to ensure that Sub-contractors supply adequate supervision, suitable materials or equipment, or adequate numbers of skilled workmen and supervision to the Work;

26.1.4 If the Construction Manager repeatedly fails to make prompt payments to Sub-contractors or suppliers at any tier, or for labor, materials or equipment;

26.1.5 If the Construction Manager disregards laws, ordinances, rules, codes, regulations, orders or similar requirements of any public entity having jurisdiction;

26.1.6 If the Construction Manager disregards the authority of the Consultant or the Owner;

26.1.7 If the Construction Manager performs Work which deviates from the Contract Documents, and neglects or refuses to correct rejected Work; or

26.1.8 If the Construction Manager otherwise violates in any material way any provisions or requirements of the Contract Documents.

26.2 Once the Owner determines that sufficient cause exists to justify the action, the Owner may terminate the Contract without prejudice to any other right or remedy the Owner may have, after giving the Construction Manager and its Surety three (3) Calendar Days notice by issuing a written Declaration of Default. The Owner shall have the sole discretion to permit the Construction Manager to remedy the cause for the contemplated termination without waiving the Owner's right to terminate the Contract.

26.3 In the event that the Contract is terminated, the Owner may demand that the Construction Manager's Surety take over and complete the Work on the Contract. The Owner may require that in so doing, the Construction Manager's Surety not utilize the Construction Manager in performing the Work. Upon the failure or refusal of the Construction Manager's Surety to take over and begin completion of the Work within twenty (20) Calendar Days after the demand, the Owner may take over the Work and prosecute it to completion as provided below.

26.3.1 In the event that the Contract is terminated and the Construction Manager's Surety fails or refuses to complete the Work, the Owner may take over the Work and prosecute it to completion in accordance with the laws of the Commonwealth, by contract or otherwise, and may exclude the Construction Manager from the site. The Owner may take possession of the Work and of all of the Construction Manager's tools, appliances, construction equipment, machinery, materials, and plant which may be on the site of the Work, and use the same to the full extent they could be used by the Construction Manager, without liability to the Construction Manager. At the Owner's sole discretion, the Owner has the right to take assignment of any or all portions of the contract work in order to prosecute the completion of the Work. In exercising the Owner's right to prosecute the completion of the Work, the Owner may also take possession of all materials and equipment stored at the site or for which the Owner has paid the Construction Manager but which are stored elsewhere, and finish the Work as the Owner deems expedient. In such case, the Construction Manager shall not be entitled to receive any further payment until the Work is finished.

26.3.2 If the unpaid balance of the Contract Price exceeds the direct and indirect costs and expenses of completing the Work including compensation for additional professional and Consultant services, such excess shall be used to pay the Construction Manager for the cost of the Work it performed and a reasonable allowance for overhead and profit. If such costs exceed the unpaid balance, the Construction Manager or the Construction Manager's Surety shall pay the difference to the Owner. 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, methods, and reasonableness of the costs of completing the Work and the Owner shall not be required to obtain the lowest figure for Work performed in completing the Contract. In the event that the Owner takes bids for remedial Work or completion of the Project, the Construction Manager shall not be eligible for the award of such Contract.

26.3.3 The Construction Manager shall be liable for any damage to the Owner resulting from the termination or the Construction Manager's refusal or failure to complete the Work, and for all costs necessary for repair and completion of the Project above the amount of the Contract. The Construction Manager shall be liable for all attorney's fees, costs and expenses incurred by the Owner to enforce the provisions of the Contract.

26.3.4 If liquidated damages are provided in the Contract and the Owner terminates the Contract, the Construction Manager shall be liable for such liquidated damages, as provided for in Article 29.2 and 29.3 below, until Substantial Completion and Final Completion of the Work are achieved.

26.3.5 In the event the Contract is terminated, the termination shall not affect any rights of the Owner against the Construction Manager. The rights and remedies of the Owner under this Article are in addition to any other rights and remedies provided by law or under this Contract. Any retention or payment of monies to the Construction Manager by the Owner will not release the Construction Manager from liability.

26.3.6 In the event the Contract is terminated under this Article, and it is determined for any reason that the Construction Manager was not in default under the provisions of this Article, the termination shall be deemed a Termination for Convenience of the Owner pursuant to Article 24 and the rights and obligations of the parties shall be determined in accordance with Article 24.

ARTICLE 27 - SUSPENSION OF WORK

27.1 The Owner or the Consultant may, at any time and without cause, order the Construction Manager in writing or cause the Construction Manager to suspend, delay or interrupt all or any part of the Work for such period of time as the Owner may determine to be appropriate for its convenience. Adjustment may be made for any increase in the Contract time necessarily caused by such suspension or delay, in accordance with Article 21.

ARTICLE 28 - TIME OF COMPLETION

28.1 The Construction Manager shall begin the Work on the date of commencement as specified in the Work Order. All time limits stated in the Contract Documents are of the essence of the Contract. The actual end of the Contract Time shall be the date specified on the approved certificate of Substantial Completion. The time for completion set forth in the Contract is a binding part of the Contract upon which the Owner may rely in planning the use of the facilities to be constructed and for all other purposes.

28.2 Substantial Completion is defined in Article 1.1.17 of these General Conditions. Only incidental corrective Work under punch lists and final cleaning (if required) for Owner's full use shall remain for Final Completion. The ability to occupy or utilize shall include regulatory authority approval unless regulatory approval is delayed due to actions of the Owner or the Consultant. When the Owner accepts and occupies a portion of the Project, the operation, maintenance, utilities, and insurance of that portion of the Project becomes the responsibility of the Owner.

28.3 The date of Substantial Completion shall be that date certified by the Owner, in accordance with the following procedures, that the Work is sufficiently complete to occupy or utilize as defined above.

28.3.1 When the Construction Manager considers the entire Work is substantially complete as defined in Article 1.1.17 of these General Conditions, and is ready for its intended use, the Construction Manager shall notify the Consultant in writing and request an inspection. The declaration and request shall be accompanied by a list prepared by the Construction Manager of those items of Work still to be completed or corrected. The failure of the Construction Manager or Consultant to include any item or items which are not completed or which need correction on such list shall not alter the responsibility of the Construction Manager to complete all Work in accordance with the Contract Documents.

28.3.2 The Consultant shall, within a reasonable time after receipt of notification from the Construction Manager of a declaration of Substantial Completion and request for inspection, make such inspection. Prior to the Substantial Completion Inspection and within sufficient time to allow the Consultant's review, the Construction Manager shall submit all As-Built drawings, Notice of Termination, catalog data, complete operating and maintenance instructions, manufacturer specifications, certificates, warranties, written guarantees and related documents required by the contract. The Consultant shall review said documents for accuracy and compliance with the Contract Documents and incorporate them into complete operating instructions and deliver them to the Owner.

28.3.3 If the Consultant considers the Work substantially complete, the Consultant shall recommend that the Owner prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion and the responsibilities between the Owner and Construction Manager for security, maintenance, heat, utilities and insurance, if not otherwise provided for in the Contract Documents, and a tentative list of items to be completed or corrected, and shall fix the time within which the Construction Manager shall complete the items listed therein. This time shall not exceed thirty (30) Calendar Days unless otherwise provided for in the Work Order. The Certificate of Substantial Completion shall be submitted to the Consultant and Construction Manager for their written acceptance of the responsibilities assigned to them in the certificate. The Project shall not be deemed substantially complete until the certificate is issued. If, after making the inspection, the Consultant does not consider the Work substantially complete, the Consultant will notify the Owner and the Construction Manager in writing

28.4 Operation and Maintenance Manual Deliverables. In anticipation and preparation of completion of the Work and the closing out of the Project, and to facilitate training of the Owner's personnel in the maintenance and operation of the new installations, the Construction Manager shall comply with the requirements of Article 8.7 of the Special Conditions~~s~~ (For the purposes of this article, air test and balance reports may be submitted at a later date with the request for certification of substantial completion.) These manuals shall be submitted to the Consultant for approval, and subsequently forwarded to the Owner's Project Manager by or before the time construction is 75% complete, as reflected by the Contractor's most recently submitted Application for Payment.

28.4.1 The provisions of Article 30.11 notwithstanding, if the Construction Manager meets the requirements of Article 28.4 above with respect to timely submittal of approvable Operation and Maintenance manuals and provided the project construction is 1) at least 75% complete and 2) is equal to or ahead of the approved progress schedule and 3) the Work completed is in compliance with the requirements of the contract documents, the Owner, at the sole discretion of the Director, Capital Projects Management Division may reduce the retainage to not less than three percent (5%) of the current Contract Amount. In the event the Construction Manager fails to submit acceptable O&M manuals prior to reaching 75% completion, it is agreed that the Owner at its sole discretion may deduct from the current and subsequent Applications for Payment an amount

deemed by the Owner to be sufficient to encourage prompt compliance with this contractual requirement, until such time as acceptable O&M manuals are received.

28.5 Project Close Out. When the Construction Manager considers that all Work required by the Contract is 100% complete, including correction of any remaining punch list work or deficiencies, the Construction Manager shall notify the Consultant in writing and request a final inspection. The Consultant, upon receipt of written notice from the Construction Manager that the Work is complete and is ready for final inspection and acceptance, will promptly make such inspection and if the Consultant finds the Work completed and acceptable under the Contract Documents and the Contract fully performed, the Consultant will notify the Construction Manager in writing to submit, and will certify to the Owner a final Certificate for Payment in accordance with Articles 30.9 and 30.9.1 of these General Conditions. If the Construction Manager does not complete the punch items within the time designated, the Owner retains the right to have these items corrected at the expense of the Construction Manager including all architectural, engineering and inspection costs and expenses incurred by the Consultant and the Owner, and to deduct such costs and expenses from the funds being held in retainage. The Owner shall not be required to release the retainage until such items have been completed.

ARTICLE 29 - LIQUIDATED DAMAGES

29.1 The Owner and the Construction Manager recognize and agree that time is of the essence of this Contract and that the Owner will suffer financial loss if the Work is not completed within the time specified in the Contract plus any extensions that may be allowed. The parties further recognize the delays, expense and difficulties involved in proving the actual loss suffered by the Owner should the Work not be completed on time. The Owner and the Construction Manager agree on the amounts stated as liquidated damages in the Agreement. The Owner and Construction Manager agree that the amount stated as liquidated damages are not intended to be penalties.

29.2 Should the Construction Manager fail to satisfactorily complete the Work under Contract on or before the date stipulated for Substantial Completion, as adjusted by approved Change Orders, if any, the Construction Manager will be required to pay liquidated damages to the Owner for each consecutive Calendar Day that the Owner is deprived of full use of the area beyond the date specified unless otherwise stipulated elsewhere by Owner. After the date for Substantial Completion has been certified by the Owner, the Construction Manager shall cease to owe liquidated damages until the date established for Final Completion.

29.3 If Final Completion is not achieved by the date established for Final Completion, as adjusted by approved Change Orders, if any, liquidated damages in the amount stipulated in the Agreement will become due and collectable. The Contract will be considered complete and Final Completion shall be deemed to have occurred when all Work has been completed in compliance with the Contract Documents and the Certificate of Final Completion has been issued by the Owner. No deduction or payment of liquidated damages will, in any degree, release the Construction Manager from further obligations and liabilities to complete the entire Contract. Permitting the Construction Manager to continue and finish the Work, or any part of it, after expiration of the Contract Time, shall in no way constitute a waiver on the part of the Owner of any liquidated damages due under the Contract.

ARTICLE 30 - PAYMENT TO THE CONSTRUCTION MANAGER

30.1 Payments on account of this Contract shall be made monthly as Work progresses. The Construction Manager shall submit to the Consultant, in the manner and form prescribed, an application for each payment, and, if required, receipts or other vouchers showing payments made for materials and labor, including payments to Sub-contractors. All payments shall be subject to any withholding or retainage provisions of this contract. All pay request documents, except the final payment, shall be submitted in whole dollar amounts. All payment applications from the Construction Manager shall include line items for overhead, profit and general condition costs.

30.2 The Consultant shall, within ten (10) Business Days after receipt of each application for payment, certify approval of payment in writing to the Owner and present the application to the Owner, or return the application to the Construction Manager indicating in writing its reasons for refusing to approve payment. The Owner, provided no exception is taken to the application for payment submitted by the Consultant, will issue

payment on or within thirty (30) Business Days from the date received from the Consultant. A reasonable delay on the part of the Owner in making payment to the Construction Manager for any given payment shall not be grounds for breach of Contract. The Consultant may refuse to approve the whole or any part of any payment if it would be incorrect to make such presentation to the Owner.

30.3 If payment is requested on the basis of materials and equipment not incorporated in the Work, but delivered and suitably stored at an off jobsite location agreed to in writing by the Owner that meets the manufacturer's requirements for the stored material and not-comingled with other material, the Construction Manager must furnish the following:

30.3.1 A list of the materials consigned to the Project (which shall be clearly identified), giving the place of storage, together with copies of invoices.

30.3.2 Certification that all items have been tagged for delivery to the Project and that they will not be used for any other purpose.

30.3.3 A letter from the Surety indicating that the Surety agrees to the arrangements and that payment to the Construction Manager shall not relieve either the Construction Manager or its Surety of their responsibility to complete the Work.

30.3.4 Evidence of adequate insurance listing the Owner as an additional insured covering the material in storage.

30.3.5 Evidence that representatives of the Consultant have visited the Construction Manager's place of storage and checked all items listed on the Construction Manager's certificate. They shall certify, insofar as possible, that the items are in agreement with the Specifications and approve their incorporation into the Project.

30.4 The Owner will pay 80% of the invoiced value less retainage for materials stored off site providing the above conditions are met.

30.5 The Construction Manager's signature on each subsequent application for payment shall certify that all previous progress payments received on account of the Work have been applied to discharge in full all of the Construction Manager's obligations reflected in prior applications for payment.

30.6 Each payment made to the Construction Manager shall be on account of the total amount payable to the Construction Manager and the Construction Manager warrants and guarantees that the title to all materials, equipment and Work covered by the paid partial payment shall become the sole property of Owner free and clear of all encumbrances. Nothing in this Article shall be construed as relieving Construction Manager from the sole responsibility for care and protection of materials, equipment and Work upon which payments have been made or restoration of any damaged Work or as a waiver of the right of Owner to require fulfillment of all terms of the Contract Documents.

30.7 Within thirty (30) Calendar Days of the award of any Trade Contracts, and prior to submitting the next application for payment, the Construction Manager shall submit to the Consultant and the Owner for approval a detailed breakdown of the Contract Amount including all trade contracts that have been awarded as of the date of that application for payment pursuant to CSI specification divisions, divided so as to facilitate payment and correlated to the schedule required by General Conditions Article 32 of the Contract Documents. The total value of all activities shall add up to the Contract Amount. When approved by the Consultant and the Owner, this schedule shall be used as a basis for Construction Manager's applications for payment and may be used by the Owner to determine costs or credits resulting from changes in the Work. Failure to obtain the approval of the Schedules of Values shall be a basis for withholding payment to the Construction Manager.

30.8 Retainage – The Owner will retain ten percent (10%) of the Construction Manager's progress payments, including amounts claimed for construction management fee until fifty one percent (51%) of the construction project has been completed. Thereafter, if the Work is fully in compliance with the requirements of the Contract and except as provided for in Article 28.4.1 above, the Owner shall retain five percent (5%) of the total contract amount until Substantial Completion and acceptance of all Work covered by this Contract, as

collateral security to insure successful completion of the Work. For the purposes of this Article, the term “in full compliance” shall mean 1) that the progress of the Work is equal to or ahead of that predicted by the Project Baseline schedule and 2) the Work completed is in compliance with the requirements of the contract documents. Subsequent to the issuance of the Substantial Completion Certificate and depending upon the cost involved for the completion and/or correction of punch list items, the Consultant may recommend to the Owner an adjustment to the amount being held as retainage and, if approved by Owner, the amount of retainage may then be reduced and a sufficient sum retained by Owner to assure completion of the remaining unfinished Work. Retainage reduction as provided for in this Article 30.8 is contingent upon the Construction Manager and/or Sub-contractors being on or ahead of the approved progress schedule and on verification by the Consultant that the Work completed is in compliance with the requirements of the contract documents.

30.8.1 In addition to the retainage set forth above, the Owner may withhold from any monthly progress payments or nullify any progress payments in whole or in part as necessary to protect the Owner from loss on account of:

30.8.1.1 Defective Work which has not been remedied or completed Work which has been damaged requiring correction or replacement, or

30.8.1.2 Action required by the Owner to correct Defective Work or complete Work which the Construction Manager has failed or refused to correct or complete, or

30.8.1.3 Failure of the Construction Manager to perform any of its obligations under the Contract, or

30.8.1.4 Failure of the Construction Manager to make payment properly to Sub-contractors; suppliers of material, services or labor; or to reimburse the University for utilities or other services as provided for in the Contract;

30.8.1.5 Amounts to be withheld as liquidated damages for failure to complete the Project in the allotted Contract time.

30.8.2 When the Owner is satisfied that the Construction Manager has remedied any such deficiency, payments shall be made of the amount being withheld on the next scheduled application for payment.

30.9 Final Payment – When all Work is completed and acceptable and the Contract is fully performed, the Construction Manager will be directed to submit a final payment application for certification and the entire balance shall be due and payable upon a certification of completion by the Consultant that the Work is in accordance with the Contract Documents.

30.9.1 Upon issuance of the Certificate of Final Completion by the Owner and submittal by the Construction Manager of all required documents and releases, all retained amounts shall be paid to the Construction Manager as part of the Final Payment. By accepting such payment, the Construction Manager certifies that all amounts due or that may become due to any Sub-contractor, any Consultant of the Construction Manager, or any vendors or material suppliers, have been paid or will be paid from the proceeds of the final payment; and that, further, there are not liens, claims or disputes involving the Owner or the Consultant that are outstanding or unresolved.

30.10 The Construction Manager shall promptly pay each Sub-contractor and material supplier upon receipt of payment from the Owner the amount to which said Sub-contractor and supplier is entitled, reflecting the percentage actually retained from payments to the Construction Manager on account of such Sub-contractor's work. The Construction Manager shall, by an appropriate Agreement with each Sub-contractor and material supplier, require each Sub-contractor and supplier to make payments to their sub-contractors, vendors and suppliers in similar manner.

The Consultant may, on request, furnish to any Sub-contractor or material supplier information regarding the percentages of completion applied for by the Construction Manager and the action thereon by the Consultant.

30.10.2 Neither the Owner nor the Consultant shall have any obligation to make payment to any Sub-contractor or material supplier except as may otherwise be required by law.

ARTICLE 31 – AUDITS

31.1 The Construction Manager's Trade Contractors', sub-contractors' and/or vendor's "records" shall upon reasonable notice be open to inspection and subject to audit and/or reproduction during normal business working hours as may be deemed necessary by the Owner at its sole discretion. Such audits may be performed by an Owner's representative or an outside representative engaged by the Owner. The Owner or its designee may conduct such audits or inspections throughout the term of this contract and for a period of three years after final payment, or longer if required by law. Owner's representative may (without limitation) conduct verifications such as counting employees at the Construction Site, witnessing the distribution of payroll, verifying information and amounts through interviews and written confirmations with Construction Manager's employees, field and agency labor, Trade Contractors and vendors.

31.2 "Records" as referred to in this Contract shall include any and all information, materials and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, superintendents' reports, drawings, receipts, vouchers and memoranda, and any and all other agreements, sources of information and matters that may in the Owner's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract Document. Such records shall include hard copy, as well as computer readable data if it can be made available, written policies and procedures; time sheets; payroll registers; cancelled payroll checks; subcontract files (including proposals of successful and unsuccessful bidders, bid recaps, etc.); original estimates; estimating work sheets; correspondence; change order files (including documentation covering negotiated settlements); back charge logs and supporting documentation; invoices and related payment documentation; general ledger; records detailing cash and trade discounts earned; insurance rebates and dividends; and any other Construction Manager or contractor records which may have a bearing on matters of interest to the Owner in connection with the Construction Manager's dealings with the Owner (all foregoing hereinafter referred to as the "records") to the extent necessary to adequately permit evaluation and verification of any or all of the following:

- Compliance with Contract requirements for deliverables;
- Compliance with approved plans and specifications;
- Compliance with Owner's business ethics expectations;
- Compliance with Contract provisions regarding the pricing of change orders;
- Accuracy of Construction Manager representations regarding pricing of invoices; and
- Accuracy of Construction Manager representations related to claims submitted by the Construction Manager or its payees.

31.3 The Construction Manager shall require all payees (examples of payees include Trade Contractors, Sub-contractors, vendors, and/or material suppliers) to comply with the provisions of this Article 32 by including the requirements hereof in a written contract agreement between the Construction Manager and payees. Such requirements to include flow-down right of audit provisions in contracts with payees will also apply to Subcontractors and Sub-subcontractors, material suppliers, etc. The Construction Manager will cooperate fully and will cause all related parties and all of the Construction Manager's Trade Contractors and/or subcontractors (including those entering into lump sum subcontracts) to cooperate fully in furnishing or in making available to Owner from time to time whenever requested, in an expeditious manner, any and all such information, materials and data.

31.4 Owner's authorized representative or designee shall have reasonable access to the Construction Manager's facilities, shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this contract and shall provide adequate and appropriate work space in order to conduct audits in compliance with this Article. The Construction Manager and its payees agree bear their costs and expenses relating to any inspections and audits.

31.5 If an audit inspection or examination in accordance with this Article discovers any fraud or misrepresentation, or discloses overpricing or overcharges (of any nature) by the Construction Manager to the Owner, in addition to making adjustments for the overcharges, the reasonable actual cost of the Owner's audit shall be reimbursed to the Owner by the Construction Manager. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Construction Manager's invoices and/or records shall be

made within Ninety (90) Calendar Days from presentation of the Owner's findings to the Construction Manager.

31.6 The provisions of Articles 31.1, 31.2 and 31.5 notwithstanding, the Owner shall have the right to conduct inspections and audits of any matter relating to the Contract Documents or the Work, which shall be for the Owner's sole benefit and shall not relieve the Construction manager, its sureties, contractors, subcontractors suppliers and their respective employees and agents of any obligations under the Contract Documents.

31.7 Any audits or inspections under Article 31 shall not constitute a waiver of any right the Owner has to accounting or discovery of records in the possession, custody or control of the Construction Manager, its sureties, contractors, subcontractors, vendors and their respective employees and agents

ARTICLE 32- PROGRESS & SCHEDULING

32.1 If requested by the Owner during the Design Phase of the Project, and working in cooperation with the Owner and the Consultant(s), the Construction Manager shall prepare a Critical Path Method (CPM) type Design Phase schedule incorporating design phase and review activities through completion of the design and bidding of the Trade Contracts, shall include in this Design Phase schedule the broad categories of Work to be accomplished in the subsequent implementation of the design and construction of the Project, and shall modify and update this Design Phase schedule as necessary to reflect the actual status and then current plan for the Project.

32.2 The schedules submitted for this Project shall be prepared using Primavera P6 scheduling software. If approved by the University, and at the sole discretion of the University, schedules submitted using earlier versions of Primavera scheduling software (Primavera SureTrak or Primavera P3) may be converted to Primavera P6 format by the University for review purposes. However, the University will not be responsible for any inaccuracies that may result from such conversions.

32.2.1 Prior to bidding Trade Contracts, the Construction Manager shall prepare and submit to the Owner and the Consultant a preliminary CPM construction schedule for the Work that will be included in the Project bidding documents.

32.2.2 The schedules submitted for this Project shall coordinate Work in accordance with all schedules included in the Owner's approved Program. Construction work shall be scheduled and executed such that operations of the University are given first priority. This applies particularly to outages and restriction of access.

32.2.3 The schedules submitted for this Project shall not exceed time limits established for the Project. Schedules which reflect a duration less than the Contract Time are for the convenience of the Construction Manager and shall not be the basis of any claim for delay or extension of time.

32.2.4 Schedules shall be revised at appropriate intervals as required by the condition of the Work and the Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

32.2.5 The Construction Manager shall also submit a payment schedule indicating the percentage of the Contract Amount and the amount of the anticipated monthly payments that will be requested as the Project proceeds.

32.2.6 The Owner may withhold approval of all or a portion of progress payments until the progress payment schedule and construction schedule have been submitted by the Construction Manager.

32.3 The Construction Manager shall prepare and keep current, for the Consultant's approval, a separate schedule of submittals coordinated with the Construction Manager's CPM construction schedule that provides reasonable time for the Consultant to review the submittals.

32.4 The Construction Manager shall cause the work to be performed pursuant to the most recent schedules.

ARTICLE 33 - USE OF COMPLETED PORTIONS

33.1 Upon mutual Agreement between the Owner, Construction Manager, and Consultant, the Owner may use a completed portion of the Project after an inspection is made. Such possession and use shall not be deemed as acceptance of any Work not completed in accordance with the Contract Documents, nor shall such possession and use be considered to alter warranty obligations or cause any warranty period to commence prior to Substantial Completion.

ARTICLE 34 – INDEMNIFICATION

34.1 To the fullest extent permitted by law, the Construction Manager shall indemnify and hold harmless the Owner, its consultants, and their respective employees and agents from and against all claims, damages, losses and expenses, including attorney's fees, provided that any such claim, loss, damage or expense: (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and (b) is caused in whole or in part by any negligent act or omission of the Construction Manager, any Sub-contractor or material supplier, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This basic obligation to indemnify shall not be construed to nullify or reduce other indemnification rights which the Owner, its consultants, and their respective employees and agents would otherwise have.

34.2 The Construction Manager shall also indemnify and hold harmless the Owner, its consultants, and their respective employees and agents from any claims relating to the Project brought against the Owner, its consultants, and their respective employees and agents by any Sub-contractor unless such claims are due to the gross negligence or misconduct of the Owner or Consultant.

34.3 In any and all claims against the Owner its consultants, and their respective employees and agents, by any employee of the Construction Manager, any Sub-contractor, any one directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Article shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Construction Manager or any Sub-contractor under Worker's Compensation acts, disability benefit acts or other employee benefit acts.

34.4 The obligations of the Construction Manager under this Article shall not extend to the liability of the Consultant, his agents or employees, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Consultant, his agents or employees, provided such giving or failure to give is the primary cause of injury or damage.

ARTICLE 35 - INSURANCE

35.1 The Construction Manager shall furnish the Owner the Certificates of Insurance or other acceptable evidence that insurance is effective, and guarantee the maintenance of such coverage during the term of the Contract. Each policy of insurance, except Workers Compensation, shall name the University of Kentucky and the directors, officers, trustees and employees of the University as additional insured on a primary and non-contributory basis as their interest appears. Waiver of subrogation in favor of the University of Kentucky shall apply to all policies. Any endorsements required to validate such waiver of subrogation shall be obtained by the Construction Manager at the Construction Manager's expense.

35.2 The Construction Manager shall not commence, nor allow any Sub-contractor to commence Work under this Contract, until the Owner has reviewed the certificates and approved coverages and limits as satisfying the requirements of the bidding process.

35.3 Workers' Compensation and Employers' Liability Insurance. The Construction Manager shall acquire and maintain Workers' Compensation insurance with Kentucky's statutory limits and Employers' Liability insurance as defined in the Special Conditions for all employees who will be working at the Project site. In the event any Work is sublet, the Construction Manager shall require any Sub-contractor to provide proof of this

insurance for the Sub-contractors' employees, unless such employees are covered by insurance provided by the Construction Manager.

35.4. The Construction Manager shall either require each Sub-contractor to procure and maintain insurance of the type and limits stated during the terms of the Contract, or insure the activities of such Sub-contractors under a blanket form as described below:

35.4.1 Commercial General Liability Insurance. The Construction Manager shall acquire and maintain a Broad Form Comprehensive General Liability (CGL) Insurance Policy including premises - operations, products/completed operations, blanket contractual, broad form property damage, real property fire legal liability and personal injury liability coverage. The Insurance Policy must be on an "occurrence" form only, unless approved by the Owner. Contractual liability must be endorsed to include defense costs. Products and completed operations insurance must be carried for two years following completion of the Work. Policies which contain Absolute Pollution Exclusion endorsements are not acceptable. Coverage must include pollution from "hostile fires". Where required by the risks involved, Explosion, Collapse and Underground (XCU) coverages shall be added by endorsement. If the work involved requires the use of helicopters, a separate aviation liability policy as defined in the Special Conditions will be required. If cranes and rigging are involved, a separate inland marine policy with liability limits as defined in the Special Conditions will be required.

35.4.1.1 The limits of liability shall not be less than defined in the Special Conditions.

35.4.2 Comprehensive Automobile Liability Insurance. The Construction Manager shall show proof and guarantee the maintenance of insurance to cover all owned, hired, leased or non-owned vehicles used on the Project. Coverage shall be for all vehicles including off the road tractors, cranes and rigging equipment and include pollution liability from vehicle upset or overturn. Policy limits shall not be less than defined in the Special Conditions.

35.4.3 Excess or Umbrella Liability Insurance. The Construction Manager shall acquire and maintain a policy of excess liability insurance in an umbrella form for excess coverages over the required primary policies of broad form commercial general liability insurance, business automobile liability insurance and employers' liability insurance. This policy shall have a minimum as defined in the Special Conditions for each occurrence in excess of the applicable limits in the primary policies. The excess liability policy shall not contain an absolute pollution exclusion and shall include coverages for pollution that may occur due to hostile fires and vehicle upset and overturn. The limits shall be increased as appropriate to cover any anticipated special exposures.

35.5 Builders Risk Insurance. The Construction Manager shall purchase and maintain an "all risk" Builder's Risk Insurance policy upon the Work at the site to the full insurable value thereof. Such insurance shall include interests of the Owner, Construction Manager, and all Sub-contractors and of their subcontractors. It shall insure against perils of fire, extended coverage, vandalism and malicious mischief. Construction Manager's work performed, and materials to be incorporated into the project and stored on the jobsite, will be covered. Builder's Risk does not include temporary buildings, or Construction Manager or Construction Manager's tools, equipment, or trailers and contents.

35.6 Insurance Agent and Company Insurance as required in the bidding process of the Project shall be written according to applicable state law in Kentucky. The policies shall be written by an insurer duly authorized to do business in Kentucky in compliance with KRS: 304.1-.100 and -110.

ARTICLE 36 - PERFORMANCE AND PAYMENT BONDS

36.1 The Construction Manager shall furnish a Performance Bond in the form provided in the Contract Documents in the full amount of the Contract Amount as security for the faithful performance of the Contract. The Construction Manager shall also furnish a Payment Bond in the form provided in the Contract Documents in the full amount of the Contract Amount for the protection of all persons performing labor or furnishing materials, equipment or supplies for the Construction Manager or its Sub-contractors for the performance of the

Work provided for in the Contract, including security for payment of all unemployment contributions which become due and payable under Kentucky Unemployment Insurance Law.

36.2 Each bond furnished by the Construction manager shall incorporate by reference the terms of the Contract as fully as though they were set forth verbatim in such bonds. In the event the Contract Amount is adjusted by Change Order, the penal sum of both the performance bond and the payment bond shall be deemed increased by like amounts.

36.3 The performance and payment bonds shall be executed by a surety company authorized to do business in the Commonwealth of Kentucky, and the contract instrument of bonds must be countersigned by a duly appointed and licensed resident agent.

36.4 Unless the Project is exempt from the prevailing wage requirements of KRS 337.505 through 337.550, the Construction Manager's bonds shall include a provision to guarantee the faithful performance and payment of the prevailing hourly wage as set forth in the schedule incorporated in the bid documents.

ARTICLE 37 - DAMAGED FACILITIES

37.1 The Construction Manager shall repair or replace, at no expense to the Owner, any damaged section of existing buildings, paving, landscaping, streets, drives, utilities, watersheds, etc. caused by Work performed under the Contract or incidental thereto, whether by the Construction Manager's own forces, Sub-contractors or by material suppliers. Such repair or replacement shall be performed by craftsmen skilled and experienced in the trade or craft for the original Work.

37.2 Water damage to the interior of any building caused by Work performed under the Contract or incidental thereto, whether by the Construction Manager's own forces, Sub-contractors, or by material suppliers, and whether occurring in a new or existing building, shall be repaired by the Construction Manager at the Construction Manager's expense, and any materials damaged inside the building, including personal property, shall be repaired or replaced at the full replacement cost by the Construction Manager at the Construction Manager's expense.

37.3 For existing buildings, the Construction Manager, along with the Owner's Representative and Consultant, will tour the Project site to evaluate existing conditions and determine any existing damage before any Work on this Contract is done.

37.4 Should the Construction Manager fail to proceed with appropriate repairs in an expedient manner, the Owner reserves the right to have the Work/repairs completed and deduct the cost of such Work/repairs from amounts due or to become due to the Construction Manager. If the Owner deems it not expedient to repair the damaged Work, or if repairs are not done in accordance with the Contract, an equitable deduction from the Contract price shall be made.

ARTICLE 38 – CLAIMS & DISPUTE RESOLUTION

38.1 All Construction Manager's claims and disputes shall be referred to the Consultant for review and recommendation. All claims shall be made in writing to the Consultant and to the Owner's Project Manager not more than ten (10) days from the occurrence of the event which gives rise to the claim or dispute, or not more than ten (10) days from the date that the Construction Manager knew or should have known of the claim or dispute. Unless the claim is made in accordance with these requirements, it shall be waived. Any claim not submitted before Final Payment shall be waived. The Consultant shall render a written decision within fifteen (15) days following receipt of a written demand for the resolution of a claim or dispute.

38.1.1 The provisions of Article 43.2 notwithstanding, claims and disputes between the Construction Manager and any Sub-contractor or supplier shall not be referred to the Consultant except to request interpretation and/or clarification of the intent of the plans or specifications. Such claims and disputes between the Construction Manager and any Sub-contractor shall be resolved between those parties as required by Article 43.4 of these General Conditions.

38.2 The Consultant's decision shall be final and binding on the Construction Manager unless the Construction Manager submits to the Consultant and the Owner's Project Manager a written notice of appeal within fifteen (15) Calendar Days of the Consultant's decision. The Construction Manager must present within fifteen (15) Calendar Days of such notice to appeal a narrative claim in writing with complete supporting documentation. After receiving the written claim, the Project Manager will review the materials relating to the claim and may meet with the Consultant and/or the Construction Manager to discuss the merits of the claim. The Project Manager will render a decision within thirty (30) Calendar Days after receiving the written claim and supporting documentation. The decision of the Project Manager shall be final and binding pending further appeal as provided for in Article 39. If the Consultant or the Project Manager do not issue a written decision within thirty (30) calendar days after receiving the claim and supporting documentation, or within a longer period as may be established by the parties to the Contract in writing, then the Construction Manager may proceed as if an adverse decision had been received.

38.3 If the Project Manager does not agree with the Consultant's decision on a claim by the Construction Manager, the Project Manager shall notify the Construction Manager and the Consultant and direct the Construction Manager to perform the Work about which the claim was made and the Construction Manager shall proceed with such Work in accordance with the Project Manager's instruction. If the Construction Manager disagrees with a decision of the Project Manager concerning a Construction Manager's claim, the Construction Manager shall proceed with the Work as indicated by the Project Manager's decision.

38.4 The Construction Manager shall continue to diligently pursue Work under the Contract pending resolution of any dispute, and the Owner shall continue to pay for undisputed work in place.

ARTICLE 39 - CLAIMS FOR DAMAGE

39.1 Should either party to the Contract suffer damage because of wrongful act or neglect of the other party, or of anyone employed by them, or others for whose act they are legally liable, or if other controversy should arise under the Contract, such claim or controversy shall be made in writing to the other party within thirty (30) days after the first occurrence of the event. Prior to the institution of any action in court, the claim or controversy (together with supporting data) shall be presented in writing to the Director of the Capital Project Management Division at the University of Kentucky ("Director") or his designee. The Director, or designee, is authorized, subject to any limitations or conditions imposed by regulations, to settle, comprise, pay, or otherwise adjust the claim or controversy with the Construction Manager. The Director, or designee, shall promptly issue a decision in writing. A copy of the decision shall be mailed or otherwise furnished to the Construction Manager. The decision rendered shall be final and conclusive unless the Construction Manager files suit pursuant to KRS 45A.245. If the Director, or designee, does not issue a written decision within one hundred and twenty (120) days after written request for a final decision, or within a longer period as may be established by the parties to the Contract in writing, then the Construction Manager may proceed as if an adverse decision had been received.

39.2 Any legal action on the Contract shall be brought in the Franklin Circuit Court and shall be tried by the Court sitting without a jury. All defenses in law or equity, except the defense of government immunity, shall be preserved to the Owner. The Owner shall recover from the Construction Manager all attorney's fees, costs and expenses incurred to the extent the Owner prevails in defending or prosecuting each claim in litigation of disputes under the Contract. The Owner is the prevailing party under this provision and is entitled to recover attorneys' fees, costs and expenses on a claim-by-claim basis to the extent the Owner successfully defeats or prosecutes each claim. A recovery of a net judgment by the Construction Manager shall not be determinative of the Owner's right to recover attorneys' fees, expenses and costs. Rather, such a determination shall be made based on the extent that the Owner successfully defends or prosecutes each distinct claim in litigation under the Contract, even if the Owner does not prevail on every claim. The Construction Manager shall be liable to the Owner for all attorney's fees, costs and expenses incurred by the Owner to enforce the provisions of the Contract.

ARTICLE 40 - LIENS

40.1 The filing and perfection of liens for labor, materials, supplies, and rental equipment supplied on the Work are governed by KRS 376.195 et seq.

40.2 Statements of lien shall be filed with the Fayette County Clerk and any action to enforce the same must be instituted in the Fayette Circuit Court, pursuant to KRS 376.250 (5).

40.3 The lien shall attach only to any unpaid balance due the Construction Manager for the improvement from the time a copy of statement of lien, attested by the Fayette County Clerk, is delivered to the Owner, pursuant to the provisions of KRS 376.240.

ARTICLE 41 - ASSIGNMENT

41.1 Neither party to the Contract shall assign the Contract, or any portion thereof without the prior written consent of the other, which consent may be granted or withheld in the granting party's sole and absolute discretion. The Construction Manager shall not assign any amount or part of the Contract or any of the funds to be received under the Contract unless the Construction Manager has the prior written approval of the Owner (which approval may be granted or withheld in the Owner's sole and absolute discretion) and the Surety on the Construction Manager's bond has given written consent to any such assignment.

ARTICLE 42 - SEPARATE CONTRACTS

42.1 The Owner reserves the right to enter into other Contracts in connection with the Project or to perform any work with the Owner's forces in the normal sequence of the work as depicted in the then current construction schedule. Except for work performed by University personnel, such contracts shall be assignable to the Construction Manager and shall contain the same terms and conditions as the contracts between the Construction Manager and the Sub-contractors. The Construction Manager will be entitled to a maximum of three percent (3%) overhead and profit on the value of such assigned contracts. The Construction Manager shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate its Work with theirs in such manner as the Consultant may direct.

42.2 Should the Construction Manager cause damage to any separate contractor on the Work, and the separate contractor sues the Owner on account of any damage alleged to have been so sustained, the Construction Manager shall be responsible for all costs, attorney's fees and expenses incurred by the Owner for defending such proceedings unless the Owner prevails on behalf of the Construction Manager in which case fees and expenses will be the responsibility of the separate contractor and if any judgment against the Owner arises therefrom, the Construction Manager shall pay or satisfy it and shall pay all costs, attorney's fees and expenses incurred by the Owner.

42.3 If any part of the Construction Manager's Work depends upon the work of any other separate contractor, the Construction Manager shall promptly report to the Consultant any observed defects in such work that render it unsuitable for proper execution connection. The failure to inspect and report shall constitute an acceptance of the other contractor's work as fit and proper for the reception of the work, except as to defects which may develop in the other contractor's work after the execution of the work.

42.4 Whenever work being done by the Owner's forces or by other contractors is contiguous to work covered by this Contract, the respective rights of the various parties involved shall be established by the Owner to secure the completion of the various portions of the Work in general harmony.

ARTICLE 43 - CONSTRUCTION MANAGER/SUB-CONTRACTOR RELATIONSHIP

43.1 The Construction Manager is fully responsible to the Owner for the acts and omissions of the Sub-contractors and of persons either directly or indirectly employed by them. The Construction Manager is responsible for the acts and omissions of persons employed directly by the Construction Manager and for the coordination of the Work, including placement and fittings of the various component parts. No claims for extra costs as a result of the failure to coordinate the Work, or by acts or omissions of the various Sub-contractors, will be paid by the Owner.

43.2 Except as otherwise provided in these Contract Documents, the Construction Manager agrees to bind every Sub-contractor by the terms and conditions of the Contract Documents as far as applicable to their portion of the Work. Upon request, the Construction Manager shall provide copies of any subcontracts and purchase orders to the Owner or Consultant.

43.3 The Construction Manager shall make no substitution or change in any Sub-contractor listed and accepted by the Consultant or Owner except as approved in writing by the Owner. The Construction Manager shall not employ any Sub-contractor or supplier against whom the Owner or the Consultant has made reasonable and timely objection.

43.4 Nothing contained in the Contract Documents shall create any contractual relationship between the Owner and any Sub-contractor or supplier. The Construction Manager is hereby notified that it is the Construction Manager's contractual obligation to settle disputes between Sub-contractors and/or suppliers. Neither the Owner nor the Consultant will settle disputes between the Construction Manager and the Sub-contractors or suppliers, or between Sub-contractors or suppliers.

43.4.1 The Owner does not waive sovereign immunity under KRS 45A.245(1) for any claim or claims made by parties not having a written contract with the University of Kentucky.

43.4.2 Third party and/or flow-through type claims, from Sub-contractors and/or suppliers or any other entity not having a written contract directly with the University, are specifically prohibited by this Contract and no provision of the Construction Manager's contracts with such entities shall indicate otherwise.

43.4.3 The Construction Manager shall indemnify and hold harmless the Owner and its agents and employees from any claims relating to the Project brought against the Owner by any of the Construction Manager's Sub-contractors or suppliers, or between their sub-contractors or suppliers.

ARTICLE 44 - CASH ALLOWANCE

44.1 The Construction Manager is to provide or require the Sub-contractor(s) to include in the Contract Amount all costs necessary to complete the Work. Costs based on "allowances" shall be permitted only for objectively quantifiable material items and only with the prior written approval of the Owner.

ARTICLE 45 - PROJECT SITE LIMITS

45.1 The Construction Manager shall confine the apparatus, the storage of materials, and the operations of Workmen to Project site limits indicated in the Contract Documents and as permitted by law, ordinances, and permits, and shall not unreasonably encumber the site with materials and equipment.

ARTICLE 46 - CLEAN UP

46.1 The Construction Manager shall at all times keep the premises free from accumulation of waste material or rubbish caused by the operations in connection with the Work. All corridors and exit doors must be kept clear at all times. All exit ways, walks, and drives must be kept free of debris, materials, tools and vehicles.

46.2 At the completion of the Work, and prior to final inspection and acceptance, the Construction Manager shall remove all remaining waste materials, rubbish, Construction Manager's construction equipment, tools, machinery, and surplus materials and shall leave the Work in a clean and usable condition, satisfactory to the Consultant and the Owner. If the Construction Manager fails to clean up as provided in the Contract Documents, the Owner may perform the cleaning tasks and charge the cost to the Construction Manager.

ARTICLE 47 - POINTS OF REFERENCE

47.1 The Construction Manager shall carefully preserve bench marks, reference points and stakes, and in case of willful or careless destruction, the Construction Manager shall be charged with the resulting expense of replacement and shall be responsible for any mistake that may be caused by their loss or disturbance.

ARTICLE 48 - SUBSTITUTION - MATERIALS AND EQUIPMENT

48.1 Reference to or the listing of items to be incorporated in the construction without referring to any specific article, device, equipment, product, material, fixture, patented process, form, method or type of construction, or by name, make, trade name, or catalog number shall be interpreted as establishing the general intent of the Contract and the general standard of quality for that item.

48.2 Specific references in the Contract Documents to any article, device, equipment, product, material, fixture, patented process, form, method or type of construction, or by name, make, trade name, or catalog number, with the words "or equal", shall be interpreted as establishing a minimum standard of quality, and shall not be construed as limiting competition.

48.2.1 Substitution of other equipment and materials as "or equal" to items named in the specifications will be allowed provided the proposed substitution is approved by the Consultant and will perform the functions called for by the general design, be similar and of equal quality to that specified and be suited to the same use and capable of performing the same function of that specified. The Construction Manager has the burden to prove equality of any substitution requested.

48.3 Specific references in the Contract Documents to any article, device, equipment, product, material, fixture, patented process, form, method or type of construction, or by name, make, trade name, or catalog number, without the words "or equal", shall be interpreted as defining an item or source that has after careful consideration been determined by the University as necessary to be compliant with, and/or to function properly within, the University operational system. No substitutions will be allowed.

48.3.1 In the event the Contract Documents contain specific reference to two or more items as described in Article 48.3, any of those listed will be acceptable.

48.4 Substitution of equipment and materials previously submitted by the Construction Manager and approved by the Consultant will be considered only for the following reasons:

48.4.1 Unavailability of the materials or equipment due to conditions beyond the control of the supplier.

48.4.2 Inability of the supplier to meet Contract Schedule.

48.4.3 Technical noncompliance to specifications.

48.5 In substituting materials or equipment, the Construction Manager assumes responsibility for any changes in systems or modifications required in adjacent or related work to accommodate such substitutions, despite consultant approval, and all costs associated with the substitution shall be the responsibility of the Construction Manager. The Consultant shall be reimbursed by the Construction Manager for any architectural or engineering revisions required as the result of such substitutions.

48.6 Inclusion of a certain make or type of materials or equipment in the Construction Manager's bid proposal shall not obligate the Owner to accept such materials or equipment if they do not meet the requirements of the Contract Documents and any such substitutions in the preparation of the bid without written approval shall be at the sole risk of the Construction Manager.

ARTICLE 49 - TEST AND INSPECTION

49.1 Regulatory agencies of the government having jurisdiction may require any Work to be inspected, tested or approved. The Construction Manager shall assume full responsibility therefore, pay all costs in connection therewith, unless otherwise noted, and furnish the Consultant the required certificates of inspection, testing or approval.

49.2 The Construction Manager shall give the Consultant timely notice of readiness of the Work for all inspections, tests or approvals.

49.3 The technical specifications may indicate specific testing requirements to be performed by the Construction Manager. Unless otherwise provided in the Contract Documents, the cost of all such testing shall be the responsibility of the Construction Manager. Testing shall be completed using a testing facility or laboratory approved by the Owner.

49.4 The costs of all inspection fees as may be required to construct and occupy the Work shall be the responsibility of the Construction Manager.

ARTICLE 50 - WARRANTY

50.1 The Construction Manager warrants to the Owner and the Consultant that all materials and equipment furnished under this Contract shall be new and in accordance with the requirements of the Contract Documents, and that all Work shall be of good quality, free from faults and defects and in conformance with the Contract Documents. If required by the Consultant or the Owner, the Construction Manager shall furnish satisfactory evidence as to the kind and quality of materials and equipment. If the Construction Manager requests approval of a substitution of material or equipment, the Construction Manager warrants that such installation, construction, material, or equipment will equally perform the function for which the original material or equipment was specified. The Construction Manager explicitly warrants the merchantability, the fitness for a particular purpose, and quality of all substituted items in addition to any warranty given by the manufacturer and/or supplier. Approval of any such substitution is understood to rely on such warrant of performance. Prior to the Substantial Completion inspection, the Construction Manager shall deliver to the Consultant all warranties and operating instructions required under the Contract or to which the Construction Manager is entitled from manufacturers, suppliers, and Sub-contractors. All warranties for products and materials incorporated into the Work shall begin on the date of Substantial Completion. The warranty provided in this Article 50 shall be in addition to and not a limitation of any other warranty or remedy required by law or by the Contract Documents, and such warranty shall be interpreted to require the Construction Manager to replace defective material and equipment and re-execute defective Work which is disclosed to the Construction Manager by or on behalf of the Owner within a period of one (1) year after Substantial Completion of the entire Work in addition to other warranty obligations beyond one year from Substantial Completion as provided for by law or by the Contract Documents.

50.2 Neither the final payment, any provision in the Contract Documents nor partial or entire use or occupancy of the premises by the Owner shall constitute an acceptance of Work not done in accordance with Contract Documents or relieve the Construction Manager or its Sureties of liability with respect to any warranties or responsibilities for faulty materials and workmanship. The Construction Manager or its sureties shall remedy any defects in Work and any resulting damage to Work at the Construction Manager's own expense. The Construction Manager shall be liable for correction of all damage resulting from defective Work. If the Construction Manager fails to remedy any defects or damage, the Owner may correct Work or repair damages and the cost and expense incurred in such event shall be paid by or be recoverable from the Construction Manager or the surety. The Owner will give notice of observed defects with reasonable promptness.

50.3 The Construction Manager shall guarantee that labor, material, and equipment will be free of defects for a period of one (1) year from the date shown on the Certificate of Substantial Completion unless special conditions or additional warranty periods are required by the contract pursuant to Article 23 in addition to warranty obligations which extend beyond one year from Substantial Completion. The Owner will give notice of observed defects with reasonable promptness. Expendable items and wear from ordinary use are excluded from this warranty.

50.4 Should the Construction Manager be required to perform tests that must be delayed due to climate conditions, it is understood that such tests will be accomplished by the Construction Manager at the earliest possible date with provisions of the general warranty beginning upon satisfactory completion of said test. The responsibility of the Construction Manager under this Article will not be abrogated if the Owner should elect to initiate final payment. If the Owner initiates final payment, consent of Construction Manager's surety acknowledging that Work not yet tested is required. The Construction Manager shall warrant that the entire Project will conform to the Contract Documents.

50.5 In addition to the foregoing, the Construction Manager shall warrant for a period of one (1) year that all buildings and other improvements constructed as a part of the Work shall be watertight and leak proof at every point and in every area. The Construction Manager shall, immediately upon notification by or on behalf of the Owner of water penetration, determine the source of water penetration and, at the Construction Manager's expense, (a) do any work necessary to make such buildings or improvements watertight and (b) repair and replace any other damaged material, finishes and furnishings damaged as a result of such water penetration and return the buildings or other improvements to their original condition.

50.6 The Construction Manager shall address and resolve to the Owner's satisfaction any warranty claims made by or on behalf of the Owner during the above described warranty period and all repairs and replacements made by the Construction Manager pursuant to this Article 50 shall be warranted by the Construction Manager, on the terms set forth in this Article 50, for a period of time commencing upon the completion of such repairs and replacements and ending on the later of (a) the expiration of the one (1) year warranty period provided for above or (b) six (6) months after the date such repair or replacement is completed.

50.7 All costs, attorney's fees and expenses incurred by the Owner as a result of the Construction Manager's failure to honor any warranty for the Work shall be paid by or recoverable from the Construction Manager.

ARTICLE 51 - PREVAILING WAGE LAW REQUIREMENTS

51.1 In performing the Work, the Construction Manager and Sub-contractors are required to comply with the wage and hour requirements of KRS 337.505 through 337.550, except where the contract meets exemption requirements of KRS 337.010.

51.2 On Projects not exempted under KRS 337.010, the Construction Manager and Sub-contractors shall pay all laborers, workers and mechanics performing Work under this Contract not less than the wages set forth in the prevailing wage schedule, incorporated as part of the bid and Contract Documents, as determined by the Kentucky Department of Labor in accordance with provisions of KRS 337.505 through KRS 337.550.

51.3 On covered Projects, the Construction Manager shall post and keep posted in a conspicuous place or places at the site of the Work a copy or copies of the prevailing rates of wages and the working hours as prescribed in the Contract Documents. Any laborer, worker, or mechanic working in excess of eight (8) hours per day or forty (40) hours per week, except in cases of emergency caused by fire, flood, or damage to life or property, shall be paid not less than one and one-half (1 1/2) times the basic hourly rate of pay fixed by law for all overtime worked. The determination of when an emergency exists shall be made by the Consultant or Owner as provided by law. Overtime is to be computed at not less than one and one-half (1 1/2) times the indicated base rate for all hours worked in excess of eight (8) per day, or in excess of forty (40) hours per week. KRS 337.540 permits an employee and employer to agree in writing that the employee will be compensated at a straight time base rate for hours worked in excess of eight (8) hours in any one workday but not more than ten (10) hours worked in any one (1) calendar day where there the employee and employer enter into an agreement in writing prior to the working of any one (1) day in excess of eight (8) hours, or where provided for in a collective bargaining agreement. The fringe benefit rate is to be paid for each hour worked at a straight time rate for all hours worked. This applies to all prevailing wage determinations issued by the Labor Cabinet. As a point of clarification, if no collective bargaining agreement exists, employers must have a signed agreement with each employee on the Project. These agreements must be maintained at the employer's office along with the payroll records.

51.4 The Construction Manager and all Sub-contractors shall keep full and accurate payroll records covering all disbursements of wages to their employees to whom they are required to pay not less than prevailing rate of wages. Records shall indicate the hours worked each day by each employee in each classification of Work and amount paid each employee for his work in each classification. Payroll records are to be maintained within the state for one year after completion of the Contract. These records are to be open for inspection and transcript by the Department of Labor at any reasonable time.

ARTICLE 52 - APPRENTICES

52.1 Apprentices (for all classifications of work) shall be permitted to work only under an apprenticeship agreement approved by the Kentucky Supervisor of Apprenticeship and by the Kentucky Apprenticeship and Training, United States Department of Labor.

ARTICLE 53 - GOVERNING LAW

53.1 This Contract and all issues and disputes arising out of this Contract shall be governed by, construed and enforced in accordance with the laws of the Commonwealth of Kentucky without consideration of its conflicts of laws principles.

ARTICLE 54 - NONDISCRIMINATION IN EMPLOYMENT

54.1 During the performance of the Contract, the Construction Manager agrees as follows:

54.1.1 The Construction Manager will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, or disability in employment. The Construction Manager will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, national origin, or disability in employment. 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 Construction Manager agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

54.1.2 The Construction Manager will, in all solicitations or advertisements for employees placed by or on behalf of the Construction Manager; state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, national origin or disability in employment.

54.1.3 The Construction Manager will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representatives of the Construction Manager's commitments under this Article, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

54.2 Failure to comply with the above nondiscrimination clause constitutes a material breach of Contract.

ARTICLE 55 - AFFIRMATIVE ACTION; REPORTING REQUIREMENTS

55.1 The Construction Manager and any Sub-contractor is exempt from any affirmative action or reporting requirements, under the Kentucky Equal Employment Opportunity Act of 1978, KRS 45.550 to KRS 45.640 "The Act", if any of the following conditions are applicable:

55.1.1 The Trade Contract awarded is in the amount of two hundred and fifty thousand dollars (\$250,000.00) or less, and the amount of the Trade Contract is not a subterfuge to avoid compliance with the provisions of the Act;

55.1.2 The Construction Manager or Sub-contractor utilizes the services of fewer than eight (8) employees during the course of the Contract;

55.1.3 The Construction Manager or Sub-contractor employs only family members or relatives;

55.1.4 The Construction Manager or Sub-contractor employs only persons having a direct ownership interest in the business and such interest is not a subterfuge to avoid compliance with the provisions of The Act.

55.2 The Construction Manager and any Sub-contractor, not otherwise exempted, shall:

55.2.1 For the length of the Contract, hire minorities from within the drawing area to satisfy the agreed upon goals and timetables. Should the union with which the Construction Manager or Sub-contractor have collective

bargaining agreements be unwilling to provide sufficient minorities to satisfy the agreed upon goals and timetables, the Construction Manager and Sub-contractors shall hire minorities from other sources within the drawing area;

55.2.2 The equal employment provisions of The Act may be met in part by the Construction Manager contracting to a minority contractor or Sub-contractor. A minority contractor, Sub-contractor or subcontractor shall mean a business that is owned and controlled by one or more persons disadvantaged by racial or ethnic circumstances.

55.2.3 The Construction Manager shall, for the length of the Contract, furnish such information as required by The Act and by such rules, regulations and orders issued pursuant thereto and will permit access by the contracting agency and the department to all books and records pertaining to its employment practices and Work sites for purposes of investigation to ascertain compliance with The Act and such rules, regulations and orders issued pursuant thereto.

55.3 If the Construction Manager is found to have committed an unlawful practice against a provision of The Act during the course of performing under this Contract, a Trade Contract or a subcontract covered under The Act, the Owner may cancel or terminate the Contract, conditioned upon a program for future compliance approved by the Owner. The Owner may also declare such Construction Manager ineligible to submit proposals on further contracts until such time as the Construction Manager complies in full with the requirements of The Act.

55.4 Any provisions of The Act notwithstanding, the Construction Manager shall not be required to terminate an existing employee, upon proof that employee was employed prior to the date of the Contract, nor to hire anyone who fails to demonstrate the minimum skills required to perform a particular job.

UNIVERSITY OF KENTUCKY
SPECIAL CONDITIONS OF THE CONTRACT
FOR CONSTRUCTION BY A CONSTRUCTION MANAGER AT RISK

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ARTICLE 01 GENERAL INFORMATION

1.1 These Special Conditions are intended to modify, supplement, or delete from, applicable Articles of the General Conditions.

1.2 Where any Article of the General Conditions is supplemented by these Special Conditions, the Article shall remain in effect and the supplement shall be added thereto.

1.3 Where Special Conditions conflict with General Conditions, provisions of the Special Conditions take precedence.

ARTICLE 02 PERMITS AND FEES

The Lexington Fayette Urban County Government (LFUCG) Sewer Tap Fee shall be secured and paid for by the Construction manager at the current rate at the time of application.

ARTICLE 03 (NOT USED)

ARTICLE 04 CONSULTANT

4.1 Wherever in these Contract Documents reference is made to the Consultant, it shall be understood to mean Ross Tarrant Architects, Lexington, Kentucky or their duly authorized representatives. (See Article 2 of the General Conditions.)

ARTICLE 05 GEOTECHNICAL REPORT

5.1 No subsurface or geotechnical survey information is available at this time.

ARTICLE 06 TIME FOR COMPLETION

6.1 The time for Substantial Completion as further defined in Article 1 of the General Conditions shall be December 18, 2017 as specified in the Work Order letter, and Final Completion shall be 30 days thereafter.

ARTICLE 07 LIQUIDATED DAMAGES

7.1 Should the Construction Manager fail to achieve Substantial Completion of the Work under this Contract on or before the date stipulated for Substantial Completion (or such later date as may result from extensions in the Contract Time granted by the Owner), he agrees that the Owner is entitled to, and shall pay the Owner as liquidated damages the sum of One Thousand nine Hundred Fifty (\$1,950.00) for each consecutive calendar day that Substantial Completion has not been met. See Article 3 of the Agreement.

7.2 Should the Construction Manager fail to achieve Final Completion of the Work under this Contract on or before the date stipulated for Final Completion (or such later

date as may result from extensions in the Contract Time granted by the Owner), he agrees that the Owner is entitled to, and shall pay the Owner as liquidated damages the sum of One Thousand Two Hundred Ninety Dollars (\$1,290.00) for each consecutive calendar day until Final Completion is reached. See Article 3 of the Agreement.

ARTICLE 08 SUBMITTALS AND SHOP DRAWINGS

8.1 SUBMITTALS - GENERAL

8.1.1 The Construction Manager shall submit each set of Shop Drawings, product data and samples as a separate item in UK E-Communication[®]. Projects not utilizing UK E-Communication[®] must submit all items electronically to the Consultant and the UK Project Manager and Administrative Coordinator.

8.1.2 All sample selections for color shall be submitted for approval at the same time. Color selections shall not be submitted individually.

8.1.3 Any deviation from the Contract Documents shall be noted on the transmittal form comment section.

8.1.4 All submittals are to be reviewed by the Construction Manager for compliance with the Contract Documents before submission for approval. All submittals are to be initiated by the Construction Manager. Submittals made directly to the Consultant by sub-contractors, manufacturers or suppliers will not be accepted or reviewed.

8.1.5 Re-submittals shall conspicuously note all changes from earlier submissions. Special notation by the Construction Manager shall be made to any changes other than those made in response to the Consultant's review.

8.1.6 Manufacturers shall, when requested by the Consultant, submit test reports prepared by reputable firms or laboratories certifying as to performance, operation, construction, wearability, etc., to support claims made by the manufacturer of the equipment or materials proposed for inclusion in the Work. Construction Manager shall also submit a list of three (3) installations where said equipment or materials have been in service for a minimum of five (5) years.

8.2 SUBMISSIONS - REVIEW

8.2.1 Review of submittals is only for compliance with the design concept and the contract documents. **THE CONSULTANT SHALL NOT BE RESPONSIBLE FOR CHECKING DEVIATIONS FROM CONTRACT DOCUMENT REQUIREMENTS OR CHANGES FROM EARLIER SUBMISSIONS NOT SPECIFICALLY NOTED.**

8.2.2 The following shall be verified prior to making submittals:

Field Measurements, Field Construction Criteria, Catalog numbers and similar data, Quantities and Capacities, and Compliance with requirements, including verification of all dimensions,

8.2.3 Review Stamp designations shall be as follows:

8.2.3.1 "NET = No Exceptions Taken": Proceed with the Work, no corrections needed.

8.2.3.2

"FC = Furnish as Corrected": Proceed with the Work, noting the corrections/conditions of the approval.

8.2.3.3 "RR = Revise and Resubmit": Do not proceed with the Work, as the submittal does not comply with the Contract Documents. Revisions to the submittal are required for approval. On projects utilizing UK E-Communication, "Send Back a Step" is used in lieu of "Revise and Resubmit"

8.2.3.4 "R = Rejected": Do not proceed with the Work, the submittal is rejected.

8.3 SUBMISSIONS - SPECIAL PROVISIONS

8.3.1 In making a submittal, the Construction Manager shall be deemed to be making the following representations:

8.3.1.1 The Construction Manager understands and agrees that he shall bear full responsibility for the products furnished. The Construction Manager expressly warrants that products described in the attached submittal will be usable and that they conform to the Contract requirements unless specifically noted otherwise.

8.3.1.2 The Construction Manager understands and agrees that, without assuming design responsibility, he expressly warrants that products described in the attached submittal are capable of being used in accordance with the intent of the design documents and that they conform to the Contract requirements unless specifically noted otherwise.

8.3.1.3 The Construction Manager acknowledges that the Owner will rely on the skill, judgment, and integrity of the Construction Manager as to conformance requirements and subsequent usability.

8.4 SHOP DRAWING AND PROCUREMENT SUBMITTAL LOG

8.4.1 The Construction Manager, within ten (10) days after the Pre-Construction meeting, shall begin uploading submittals using UK E-Communication[®], to generate a log fixing the dates for submission of Shop Drawings, special order material items, certifications, guarantees, and any other items required to be submitted to the Consultant for review, approval or acceptance. Projects not utilizing UK E-Communication[®] will submit a Shop Drawing Log provided by the Owner during the Pre-Construction

Meeting.

8.4.2 The log shall track all submittals to date. The updated log shall then be reviewed and discussed at each progress meeting to determine items that may impact the construction schedule.

8.5 Shop Drawings

8.5.1 The Construction Manager shall review, approve, and submit Shop Drawings to the Consultant, in accordance with the Consultant's Shop Drawing & Procurement Submittal Log or UK E-Communication[®], as herein detailed. By approving and submitting Shop Drawings, the Construction Manager represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

8.5.2 The Construction Manager shall submit Shop Drawings required for the Work and the Consultant will review and take appropriate action. The review and approval shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The approval of a separate item will not indicate approval of the assembly in which the item functions.

8.5.3 The Construction Manager shall make any corrections required by the Consultant for compliance to the Contract and shall return the required number of corrected copies of Shop Drawings and resubmit new samples until approved. The Construction Manager shall direct specific attention, in writing, or on resubmitted Shop Drawings, to revisions other than the corrections called for by the Consultant on previous submissions. The Construction Manager's stamp of approval on any shop drawing or sample shall constitute a representation to Owner and Design Consultant that the Construction Manager has either determined and verified all quantities, dimensions, field construction criteria, materials, catalog numbers, and similar data, or he assumes full responsibility for doing so, and that he has reviewed or coordinated each shop drawing or sample with the requirements of the Work and the Contract Documents.

8.5.4 Where a shop drawing or sample submission is required by the specifications, no related Work shall be commenced until the submission has been approved by the Design Consultant. A copy of each approved shop drawing and each approved sample shall be kept in good order by the Construction Manager at the site and shall be available to the Consultant.

8.5.5 The Consultant's approval of Shop Drawings or samples shall not relieve the Construction Manager from his responsibility for any deviations from the requirements of the Contract Documents unless the Construction Manager has in writing called the Consultant's attention to such deviation at the time of submission and the Consultant has given written approval to the specific deviation. Any approval by the Consultant shall

not relieve the Construction Manager from responsibility for errors or omissions in the Shop Drawings.

8.5.6 All submittals are to be submitted electronically by the contractor. Workflow in UK E-Communication® will be established during the workflow meeting. Each individual Shop Drawing shall have its respective specification number and description highlighted.

8.5.7 Where Shop Drawings include fire alarm, communication systems schematics, sprinkler systems, etc., a pdf of each drawing shall be submitted to the Consultant as part of the "Record" set of drawings.

8.6 SUBMISSIONS - SAMPLES

8.6.1 Office samples shall be of sufficient size and quantity to clearly illustrate functional characteristics of the product with integrally related parts and attachment devices, and full range of color, texture, and pattern.

8.6.2 Products shall not be used until the sample has been submitted to and approved by the Consultant.

8.6.3 A minimum of two (2) samples are required to be submitted to the Consultant for review and approval and will be distributed as follows:

- a) One to be retained by the University;
- b) One to be returned to the Design Consultant;
- c) An additional sample or samples may be submitted, at the Construction Manager's option, for distribution to a third party.

8.6.4 Field samples (block, brick, etc.) of materials to be constructed at the site shall be submitted for review as required by the individual section of the Contract Documents.

8.7 SUBMISSIONS - OPERATION AND MAINTENANCE MANUALS

8.7.1 The University requires a minimum of one (1) bound copy and one (1) digital copy of the final installation, training, operation, maintenance, and repair manuals to be turned over to the Owner's Project Manager and approved for content by the Consultant by or before the time construction is 75% complete.

8.7.2 Manuals provided must be of sufficient detail to enable the Owner or others to install, calibrate, train, operate, maintain, service and repair every system, subsystem, and/or piece of equipment installed on or as part of this Contract. Each manual must contain:

8.7.2.1 Project Title, Project number, Location, dates of submittals, names, addresses and phone number for the Consultant, Construction Manager, and Construction Manager's Sub-contractors;

8.7.2.2 An Equipment Index that includes vendors' names, addresses, and telephone numbers for all equipment purchased on the Project;

8.7.2.3 Emergency instructions with phone numbers and names of contact persons on warranty items shall be uploaded to UK E-Communication®;

8.7.2.4 Copies of each system's air balancing record and each system's hydronic balancing record;

8.7.2.5 Copy of valve tag list;

8.7.2.6 Copy of As-Built temperature control system drawings and components and sequence of operation;

8.7.2.7 Original copies of the following provided by the manufacturer:

Installation manuals	Instruction Manuals
Training manuals	Calibration manuals
Service Manual	Operation manuals
Parts list	Repair manuals
Reviewed Shop Drawings	Wire list
	Keying Bit List

8.7.2.8 Any Computer, Micro controller, and/or Microprocessor equipped equipment installed shall be provided with source code copies of all software and firmware (prom, eprom, rom, other) supplied on this Contract; and

8.7.2.9 Copies of all inspection and guarantee certificates, manufacturers' warranties with the University of Kentucky listed as the Owner for all equipment provided and/or installed.

8.7.2.10 All manuals shall be as follows: Bound in hard cover three(3) ring (D-type) binder, 1", 1.5" or 2" maximum, indexed and in CSI format, tabbed (4,5,8 or 16th cut), no more than 80% binder fill, white vinyl, presentation type with clear vinyl view cover on front, back and spine and with pockets on front and back. Maximum drawing size in binder shall be folded 11"x17" and shall be hole punched and reinforcements added. Do not put drawings in pockets. Top of all drawings shall be at top or spine side of the manual. Complete drawings must be viewed without opening rings. Provide binders as manufactured by Universal Office Products, Des Plaines, IL. 1"(S# B2-20742), 1.5"(B2-20744), or 2"(B2-20746) or equal.

8.7.2.11 If the binder includes manuals from any one vendor covering several different model numbers, the model used on the Project must be highlighted.

8.7.2.12 Included in the front of the "Operation and Maintenance Manual" shall be a copy of the Interior and Exterior Finish plan and Schedule listing all finish materials, the manufacturer, the finish color, and the manufacturer's paint number.

8.7.2.13 Photograph album containing photos and negatives or digital images on CD (.pdf format) showing buried utilities and concealed items shall be included.

8.8 SUBMISSIONS – AS - BUILT SET OF DRAWINGS

8.8.1

The Construction Manager shall submit one (1) electronic copy of As - Built set of drawings in PDF format and one (1) hard copy indicating all deviations of construction as originally specified in the Contract Documents. These As-Built Drawings will compile information from the Construction Manager as well as all Sub-contractors. The Construction Manager shall provide a qualified representative to update the As - Built set of drawings as construction progresses.

8.8.2 The Construction Manager shall provide and utilize a camera to photograph the installation of buried utilities and concealed items. The Construction Manager shall provide standard 3 1/2" x 5" photographs with negatives, or digital images on CD (.jpeg format), which shall be submitted as part of the Operation and Maintenance Manuals submission. These photos should be mounted in a bound album with labeling as to subject of photo, date, and Project. Such album is to be kept at job site with the As - Built Set of Drawings until submittal of same.

8.8.3 Approval of the Final Payment request will be contingent upon compliance with these provisions. The Construction Manager's As – Built set of drawings shall be delivered to the Consultant at their completion so that the Consultant may make any changes on the original contract drawings.

ARTICLE 09 PLANS, DRAWINGS, AND SPECIFICATIONS

9.1 The successful Construction Manager can purchase any number of sets of plans and specifications from Lynn Imaging, Lexington, Kentucky (<http://www.ukplanroom.com/> or Phone Lynn Imaging @1.800.888.0693 or 859.255.1021). The Construction Manager will be required to pay Lynn Imaging for the cost of duplication for all sets required.

9.2 The University will provide two sets of the 'Official Contract Documents' to the successful Construction Manager. One set is to be for his office and the other set is for the jobsite.

9.3 All drawings, specifications and copies, thereof, prepared by the Consultant, are the property of the University of Kentucky. They are not to be used on other Work.

ARTICLE 10 PROGRESS MEETINGS

10.1 In addition to specific coordination and pre-installation meetings for each element of Work, and other regular Project meetings held for other purposes, progress meetings will be held as outlined at the Preconstruction Meeting. Each entity then involved in planning, coordination or performance of Work shall be properly represented at each progress meeting. The following areas will be covered at each progress meeting: current status of work in place, CM's review of upcoming work (1 month look ahead), schedule status, upcoming outages, new outage requests, shop drawings due from Sub-contractors, shop drawings being reviewed, outstanding RFI's, outstanding RFQ's, new RFQ's, change orders pending approval, new business, As-Built updated, close-out documents status, defective work in place issues, review "pencil copy" of payment application, safety issues and new business or other issues not covered above.. With regard to schedule status, discuss whether each element of current work is ahead of schedule, on time, or behind schedule in relation with updated progress schedule; determine how behind-schedule Work will be expedited, and secure commitments from entities involved in doing so; discuss whether schedule revisions are required to ensure that current Work and subsequent Work will be completed within Contract Time; and review everything of significance which could affect the progress of the Work.

10.2 Construction Manager shall prepare and submit at each progress meeting an updated schedule indicating Work completed to date and any needed revisions.

10.3 With the express purpose of expediting construction and providing the opportunity for cooperation of affected parties, progress meetings will be held and attended by representatives of:

- (1) The Owner's Project Manager
- (2) The Consultant.
- (3) Construction Manager.
- (4) Subcontractors.
- (5) Others requested to attend (as deemed necessary by CPMD).
- (6) Physical Plant Division Representative

10.4 A location near the site will be designated where such progress meetings will be held. Participants will be notified of the dates and times of the meetings by the Consultant.

ARTICLE 11 CRITICAL PATH METHOD (CPM) SCHEDULE

11.1 Construction Manager shall prepare schedules as a critical path chart with separate divisions for each major portion of the Work or operation. The schedules submitted for this Project shall be prepared using Primavera scheduling software

(Primavera Contractor; Primavera SureTrak with files saved in Concentric P3 format; Primavera P3; or Primavera P6). All schedule submittals shall include both hard copies (maximum sheet size shall be 30" x 42") as well as a complete copy of the schedule in Primavera electronic file format.

11.1.1 The schedule shall include divisions for Work to be accomplished remote from the central construction site, (for example, modular or prefabricated units to be constructed off-site, or utilities from outside the construction site to the site such as chill water, steam, electrical, communications, and fire service). Such Work shall be scheduled so that disruption resulting from construction will be minimized. Start dates and completion dates for such Work must be maintained and completed in the shortest reasonable time.

11.2 Initial Baseline Schedules shall be submitted to the Consultant and to the Owner within thirty (30) calendar days after award of the first bid Package or trade contract, and shall include detailed information regarding Work to be performed during the first ninety (90) days of the Project as well as milestone dates for all major elements of the remainder of the Work. Any necessary revisions to this Initial Milestone Schedule shall be completed prior to submittal of the Final Critical Path Baseline Schedule.

11.2.1 If the Project is to be constructed in multiple phases or using multiple Bid Packages, the date for the start of work on each phase of the Project shall be the date on which the University approves the award of the first Trade Contract for work in that phase or Bid Package.

11.3 The Final Critical Path Baseline Schedule shall be submitted to the Consultant and to the Owner within seventy five (75) calendar days after award of the first bid Package or trade contract, shall be consistent with the information contained in the Initial Baseline Schedule prepared in accordance with Article 11.2 above, shall include all activities necessary to complete the Work, and shall show the complete sequence of construction by activity, with dates for beginning and completion of each element of construction as well as an indication of whether the activity might reasonably be delayed or impacted by unusual inclement weather. Sub-schedules shall be provided as may be necessary to define critical portions of the entire schedule.

11.3.1 A separate schedule of submittal dates for Shop Drawings, product data, and samples shall be required. Such separate schedules shall show decision dates for selection of finishes and delivery dates for Owner furnished items, if any, and shall identify dates and durations for major utility outages requiring coordination with the Owner and the Owner's operations. Activities, including Outages, which require action by or which are the responsibility of, the Owner or the Consultant under the terms of the Contract shall be properly indicated, and the responsible party shall be identified in the CPM schedule.

11.4 The Consultant will review the schedule only for compliance with the intent of the contract documents. Such review shall not relieve the Construction Manager of any

responsibility for compliance with the provisions of the Contract nor shall such review or any review comments constitute an amendment or modification of the contract requirements. The Construction Manager shall be solely responsible for identifying all necessary activities, establishing activity sequencing and assigning activity durations and relationships and for the means and methods to be employed to assure constructions proceeds in accordance with the submitted schedule.

11.5 Up-dated Progress Schedules shall be submitted to the Consultant and to the Owner with each Application for Payment to indicate progress of each activity to date of submittal and the projected completion of each activity. Schedules shall show accumulated percentage of completion of each item, and total percentage of Work completed, as of the data date of the update. Each submittal of an update to the schedule shall include a narrative report that identifies and explains activities modified since the previous submittal, major changes in scope and other identifiable changes, problem areas, anticipated delays and impact on the schedule, and report corrective action taken, or proposed, and its effect. Schedules will be uploaded in UK E-Communication®'s Schedules Item Log.

11.6. Up-dated Progress Schedules shall be submitted to the Consultant and to the Owner with each Application for Payment. Submissions shall include at least one opaque reproduction and as well as a complete copy of the schedule in Primavera electronic file format along with a transmittal letter and related narrative report.

11.7 Copies of reviewed Schedules are to be provided to the job site file and, as appropriate, to subcontractors, suppliers, and other concerned entities, including separate contractors. Recipients are to be instructed to promptly report, in writing, problems anticipated by Projections shown in Schedules.

11.8 The processing of all progress payments is contingent upon the submission of critical path schedules. Only payment for bonds and limited Construction Manager mobilization costs will be approved for processing prior to acceptance of the baseline schedule(s).

11.9 The processing of all change orders requesting a time extension to the contract are subject to the terms of Article 21 of the General Conditions to this Contract and are contingent upon the submission of a critical path schedule showing the change order does indeed impact the critical path. Time extensions for Change Orders that do not impact the Substantial and/or Final Completion of the Work will not be considered.

11.10 All time extensions shall be negotiated and made full, equitable and final, and incorporated in a revised CPM schedule at the time of Change Order issuance. No reservation of rights shall be allowed.

11.11 Float available in the schedule at any time shall not be considered for the exclusive use of either party to the contract, but will be a resource available to both the Owner and the Construction Manager. (Free float is the length of time the start of an

activity can be delayed without delaying the start of a successor activity. Total float is the length of time along a given network path that the actual start of an activity or activities can be delayed without delaying the Project completion.) No time extensions will be granted for a delay unless the delay impacts the Project's critical path, consumes all available float or contingency time, and extends the Work beyond the current Contract completion date.

ARTICLE 12 WALK-THROUGH

12.1 After the "Work Order" is issued but before Work by the Construction Manager is started, a walk-through of the area is required to document the condition of the space, surfaces, or equipment. It is the responsibility of the Construction Manager to schedule the walk-through with the Owner's Project Manager, the Consultant, and other interested parties.

12.2 During the walk-through, Construction Manager shall identify all damaged surfaces or other defective items that exist prior to construction.

12.3 The walk-through shall be attended by Owner's Project Manager, a Representative of the user of the facility, the Construction Manager and the Consultant

12.4 Written documentation of the walk-through is to be provided by the Consultant with copies distributed to all parties. Polaroid type color photographs are to be provided and labeled by Construction Manager and one (1) copy of such photographs are to be given to Consultant. (Digital photos in a .jpg format are acceptable if submitted on a CD) All parties attending the walk-through agree on the list of damages.

ARTICLE 13 OWNER'S CONSTRUCTION REPRESENTATIVE

13.1 The Owner may have full time personnel or representatives on this job. If so, the Construction Manager is to provide, at no additional cost to the Owner, an office for the duration of the Project specifically for the use of Owner personnel. The office should be furnished with all required utilities, including HVAC, and the following:

- 1 Desk
- 1 Desk chair
- 2 Side chairs
- 1 2-drawer lateral filing cabinet
- 1 Telephone
- 2 DSL / cable modem connections
- 1 Layout table

ARTICLE 14 FIELD OFFICE

14.1 Construction Manager shall make his own provision for field office for his own personnel and for incidental use by their Subcontractors. Quantity and location are subject to approval of the Consultant and the Owner's Project Manager.

ARTICLE 15 TELEPHONE SERVICE

15.1 Construction Manager shall arrange through University of Kentucky Communications and Network Systems for installation of on-site phone, internet and other communications services. Telephone service during the length of construction shall be paid for by the Construction Manager. (Cell phone/Nextel service in lieu of UKIT Communications and Network Systems phone service may be utilized at Construction Manager's option.)

ARTICLE 16 CONSTRUCTION FENCE

16.1 Construction fencing will be designed and erected around job sites where there is a possibility of injury to employees, students or the public. Special precautions must be taken to protect the visually impaired, disabled, children and others using the University facilities. During active excavation/trenching operations, fencing shall be erected to prevent unauthorized entry into the site. All fencing shall comply with the current requirements of the International Building Code except where the following requirements are more stringent.

16.1.1 All job site perimeter fencing within 5 feet of a walkway, street, plot line, or public right-of-way shall be 8 feet in height. Perimeter fencing that blocks sidewalks must include signs directing pedestrians to a safe walkway or crosswalk. Signage may be attached to the fence, but may also be required to inform pedestrians of sidewalk closures and detours prior to arriving at the closed area.

16.1.2 All job site perimeter fencing more than 5 feet from a walkway, street, plot line, or public right-of-way shall be a minimum of 6 feet in height unless International Building Code requirements are more restrictive due to the height of the structure and setback

16.1.3 All fencing shall be of a woven material such as chain link or a solid type fence. Fencing shall include gates required for construction operations. Gates shall be lockable with both the Construction Manager's lock, and a lock provided by the Owner. Lock by Owner shall be keyed for the University Best GA key core. All locks to be "daisy-chained" to provide access to the Owner.

16.1.4 It shall be the Construction Manager's responsibility to determine the proper quality of materials and methods of installation of the fencing, with the understanding that it must be maintained in good condition, good appearance, rigid, plumb, and safe throughout the construction period. The fence does not have to be new material. The

fence is to be erected on fence posts securely anchored in the ground. Provide a top bar or, with prior approval of the Owner, a wire shall be run through the top of the fence and attached to the end posts. A tension control device shall be installed as necessary. Use of sandbags, concrete weights, stakes, etc. to hold fence posts in place are not allowed. Penetrations in pavement or landscape walking surfaces may not be made without the approval of the Owner. Any damage caused by the fence installation shall be repaired in a manner satisfactory to the Owner. When fencing is to remain in place for 6 months or more a green fabric mesh must be provided for the full height and length of the fence. Fabric should be omitted for one section of fencing where blind corners occur or at pedestrian/vehicle intersections.

16.1.5 The Construction Manager shall be responsible for removing and replacing any fence sections and/or posts necessary for access to the site on a daily basis. The Construction Manager shall police such conditions to assure the fence and posts are reset in a timely manner and are specifically in place at the close of the working day.

16.1.6 If the Construction Manager fails to comply with the requirements of this Article 16, the Owner may proceed to have the work done and the Construction Manager shall be charged for the cost of the Work done by unilateral deductive change order.

16.1.7 Plastic construction fencing is not acceptable as a perimeter protection fence.

ARTICLE 17 PROJECT SIGN

17.1 The Construction Manager shall furnish, install and maintain a Project sign during this Project. This sign shall be 4' x 8' x 3/4" exterior grade plywood mounted on 4" x 4" posts. Design shall be as provided by the Owner at a later date and shall include the name of the Owner, Project, Consultant, and Construction Manager.

17.2 No signs, except those attached to vehicles or equipment, may be displayed without permission from the Consultant and the Owner's Project Manager. No political signs will be permitted.

ARTICLE 18 PARKING

18.1 No on-campus parking is available. The Construction Manager shall develop a parking plan as part of the required Pre-Construction Services element of this Contract in anticipation that the majority of required parking will have to be off-campus.

ARTICLE 19 SANITARY FACILITIES

19.1 At the beginning of the Project, before any Work is started, the Construction Manager shall furnish, install and maintain ample sanitary facilities for the workforce. Permanent toilets in the existing building shall not be used during construction of the Project. Drinking water shall be provided from an approved safe source, piped or transported as to be kept clean and fresh and served from single service containers or

satisfactory types of sanitary drinking stands or fountains. All such facilities and services shall be furnished in strict accordance with existing governing health regulations.

ARTICLE 20 RULES OF MEASUREMENT

20.1 Rules of Measurement shall be established by the Consultant in the field. Actual measurement shall be taken in the field. These amounts shall become binding upon the Construction Manager and be adjusted as before mentioned.

20.2 The Construction Manager shall pay for and coordinate through the Consultant and/or the Owner's Project Manager all associated Work by utility companies including relocation of utility poles, installation of new street lights, relocation of overhead or underground lines, and any other Work called for on the Plans and in the Specifications.

ARTICLE 21 ALLOWANCES

21.1 As stated in the General Conditions to the Contract, the Construction Manager shall have included in the Contract Amount all costs necessary to complete the Work. Costs based on "allowances" shall be permitted only for objectively quantifiable items and only with the prior written approval of the Owner. No allowances shall have been included in the calculation of the Construction Manager's fixed fee quotation in par. 8.0 of the RFP.

21.2 Costs based on allowances may be included in Subcontract bid packages only with the prior written approval of the Owner, and only for objectively quantifiable material items.

21.3 Any allowance amounts included in a Subcontract bid package, but not expended for the approved task during the course of the work of that Subcontract, shall be deducted from the Construction Manager's contract by Change Order. Any additional amounts necessary to pay for additional cost of an allowance in a Subcontract bid package shall be funded from the Construction Contingency Fund.

21.4 The University of Kentucky has entered into a price contract agreement with SimplexGrinnell for procurement of fire alarm and security systems. SimplexGrinnell will provide an allowance for this project which may include Fire Alarm Equipment and Security Equipment, including all required cable/wire, labor to install cable and wire and terminations of SimplexGrinnell supplied devices and panels. SimplexGrinnell will be a sub-contractor under a trade contract.

21.4.1 The Construction Manager shall include an allowance to be determined later for the work by SimplexGrinnell in the appropriate trade contractor's scope of work.

21.4.2 The electrical contractor is to provide and install conduits and back boxes/junction boxes. All conduits will include a pull string. SimplexGrinnell will furnish and install all fire alarm and security equipment and wiring.

ARTICLE 22 CONSTRUCTION CONTINGENCY FUNDS

22.1 The Owner shall include an amount in the Project construction budget equal to one percent (1%) of the total cost of the construction, including the Construction Manager's fixed fee, as a Construction Contingency Fund. The following are general / typical categories of changes to the Work that may, with the Owner's prior written specific approval, be funded from this source:

22.1.1 Reasonable errors & omissions in the Construction Manager's bidding and scoping processes;

22.1.2 Reasonable costs associated with schedule recovery that is not a direct result of the construction managers or a trade contractor's failure to perform;

22.1.3. Any costs or expenses incurred by the Construction Manager, for provision of management services necessary to complete the Project in an expeditious and economical manner consistent with the Contract for Construction and the best interests of Owner, that were not included in the Construction Manager's General Conditions Cost as submitted in the original fee proposal

22.1.4 Amounts necessary to fund cost overruns in approved allowance items within Subcontract bid packages, as described in Article 21.3, above.

ARTICLE 23 SEQUENCE OF CONSTRUCTION

23.1 The project will be substantially complete by December 18, 2017. At the release of this RFP, the project will be bid in two (2) bid releases.

23.2 All materials and equipment are to be brought into the project site from the approved staging location and are not to be brought through the existing buildings or loading docks. Any and **all** exceptions shall be approved by, and closely coordinated with, the Owner's Project Manager in advance of scheduling or performing the work.

23.2.1 The Construction Manager shall coordinate any road and sidewalk closings, utility disruptions, etc. which will affect the use of the existing building(s) with the Owner's Project Manager prior to commencing that Work.

23.3 The adjacent buildings and public areas will remain in use and the Owner shall have access to the existing building(s) throughout the duration of the Project. The Construction Manager shall coordinate construction activity to assure the safety of those who must cross the Project site and shall provide and maintain the necessary barriers and accommodations for a completely safe route of accessibility. The Construction Manager is to insure that all exits provide for free and unobstructed egress. If exits must be blocked, then prior arrangements must be made with the Owner's Project Manager.

23.4 The Construction Manager shall cooperate with the Owner in minimizing inconvenience to, or interference with normal use of existing buildings and grounds by staff, students, other Contractors, or the public. Construction Manager shall conduct operations to prevent damage to adjacent building structures and other facilities and in such a manner to protect the safety of building's occupants.

23.5 Special effort shall be made by the Construction Manager to prevent any employee from entering existing buildings for reasons except construction business. In particular, use of toilets, drinking fountains, vending machines, etc. is strictly prohibited.

ARTICLE 24 CRANE & MATERIAL HOIST OPERATIONS

24.1 Construction Manager shall provide appropriate barriers around crane and material hoist to protect pedestrian and vehicular traffic around operating area. When crane is operating or moving, flag men provided by Construction Manager shall be utilized to prevent pedestrian and vehicular traffic from crossing pathway of crane lift. Construction Manager's flag men shall coordinate these activities with the appropriate security personnel.

24.2 Crane and material hoist shall be safely secured and inaccessible during non-operating hours. Construction Manager shall coordinate operation or erection of a crane or material hoist in the vicinity of the Medical Center with Medical Center Aeromedical Operations (Med-evac helicopter).

24.3 Any damage to trees, shrubs or plant material at the placement of crane or material hoist shall be repaired by tree surgery or replaced as directed by Consultant.

ARTICLE 25 UTILITIES

25.1 When the various building systems are energized and connected to Owner's utility systems, but prior to turnover to and occupancy by the Owner, the Construction Manager is responsible to reimburse the Owner for Owner furnished utilities. These utilities include but not limited to steam, chilled water, domestic water, and electricity, provided by the Owner up to the date of Substantial Completion. Reimbursement will be payable monthly via a deductive change order to the contract. Unit costs for campus are as follows:

25.1.1 Steam is \$15/million BTU (1000 lb.) condensate measured through the building condensate meter (all condensate is to be returned).

25.1.2 Chilled Water is \$11/million BTU (1000 lb.) measured through the building BTU meter.

25.1.3 Electricity is \$0.08/KWH measured through the building electric meter.

25.1.4 Water is supplied by Kentucky American Water Company (KAWC). Construction Manager shall pay KAWC directly until the Owner's beneficial occupancy date. The Construction Manager shall pay KAWC directly for fire service.

25.1.5 Construction Manager shall furnish gas meter and Columbia Gas Company directly for service until the until the Owner's beneficial occupancy date.

25.1.6 Construction Manager shall obtain from and pay UKIT Communications and Network Systems for the use of telephone services.

25.2 UTILITY OUTAGES

25.2.1 Interruption of Utilities and Services: No utilities or services may be interrupted without full consent and prior scheduling of the Owner. Owner approval is required in writing for each disruption.

25.2.1.1 ENTIRE BUILDING OUTAGE. The Owner's Project Manager is the Construction Manager's contact with the University for requesting Utility Outages. The Owner's Project Manager will contact the proper departments and divisions within the University and receive approval from those units prior to allowing a planned outage to occur. The established standard within the University Departments and Divisions of an entire building or group of buildings shall be three weeks written notice. The written notice shall include the type of utility to be interrupted, reason for outage, length of outage, what will be affected by the outage, and a statement of whether or not the materials are on hand to complete the Work. If a specific time is desired for the outage it should be included. The Owner's Project Manager will insure that all parties affected are contacted and that a time which is least disruptive to all parties is selected. At the appointed outage time, Work shall begin and proceed continuously with all required manpower until Work is complete at no added cost to the University. The Owner's Project Manager will then notify all affected departments or divisions.

25.2.1.2 SECTION OF A BUILDING OUTAGE. The Owner's Project Manager is the Construction Manager's contact with the University for requesting Utility Outages. The Owner's Project Manager will contact the proper departments and divisions within the University and receive approval from those units prior to allowing a planned outage to occur. The established standard within the University Departments and Divisions of a section of a building shall be a written request one week prior to outage. The written request shall include the type of utility to be interrupted, when the outage is desired, reason for outage, length of outage, and what will be affected by the outage. The Owner's Project Manager will insure that all parties affected are contacted and that a time which is least disruptive to all parties is selected. At the appointed outage time Work shall begin and proceed continuously with all required manpower until Work is complete at no added cost to the University. The Owner's Project Manager will then notify all affected departments or divisions.

ARTICLE 26 CLEANING AND TRASH REMOVAL

26.1 The Construction Manager shall keep clean the entire area of new construction and shall keep streets used as access to and from the site free of mud and debris.

26.2 All exit ways, walks, drives, grass areas, and landscaping must be kept free from debris, materials, tools and vehicles at all times. Trim weeds and grass within the site area.

26.3 Upon completion of the Work, Construction Manager shall thoroughly clean and re-sod grass areas damaged to match existing areas.

26.4 The Construction Manager shall be responsible for removal from the site of all liquid waste or other waste (i.e., hazardous, toxic, etc.) that requires special handling on a daily basis.

26.5 Dumpsters will be provided and maintained by the Construction Manager.

26.6 During Work at the Project site, the Construction Manager shall clean and protect Work in progress and adjoining Work on a continuing basis. Construction Manager shall apply suitable protective covering on newly installed Work where needed to prevent damage or deterioration until the time of Substantial Completion. Construction Manager shall clean and perform maintenance on newly installed Work as frequently as necessary through remainder of construction period.

26.7 The Construction Manager shall be responsible for daily cleaning of spillage's and debris resulting from his and his Subcontractor's operations, (includes removal of dust and debris from wall cavities), and for providing closed, tight fitting (dustproof if required), waste receptacles to transport construction debris from the work area to the dumpster. Broom clean all floors no less than once a week. The Construction Manager shall empty such receptacles into the trash container when full or when directed to be emptied by the Consultant and/or Owner's Project Manager, but not less than weekly. The use of the Owner's waste and trash receptacles is strictly prohibited, except as otherwise provided by the Project specifications.

26.8 Failure to comply with the above requirements shall be cause for stopping work until the condition is corrected.

ARTICLE 27 BLASTING

27.1 There shall be no blasting under any conditions on University of Kentucky property unless specified in these Special Conditions.

ARTICLE 28 CUTTING AND PATCHING - NEW AND EXISTING WORK

28.1 New Work - Cutting and patching shall be done by craftsmen skilled and experienced in the trade or craft that installed or furnished the original Work. Repairs

shall be equal in quality and appearance to similar adjacent Work and shall not be obviously apparent as a patch or repair. Work that cannot be satisfactorily repaired shall be removed and replaced.

28.2 Existing Construction - Refer to Architectural, Mechanical, and Electrical drawings for cutting and patching. All new Work shall be connected to the existing construction in a neat and workmanlike manner, presenting a minimum of contrast between old and new Work. Do all patching of the existing construction as may be required for the new construction to be completed. Necessary patching, closing of existing openings, repairing and touching up shall be included as required for a proper, neat and workmanlike finished appearance. Any existing item that is to remain and is damaged during construction shall be replaced at the Construction Manager's expense.

ARTICLE 29 UNRELATED PROJECTS

29.1 Unrelated construction projects may be under way in the vicinity of this Project or the site utility work during the course of the Work related to this Project. The Construction Manager for this Project must coordinate with any other contractors regarding overlapping areas. See Article 42 - Separate Contracts of the General Conditions.

ARTICLE 30 OWNER SUPPLIED MATERIALS

30.1 Owner, in an effort to expedite this Project, has pre-ordered certain long lead time items. The following is the list of material that has been pre-ordered:

1. To Be Determined

30.2 All Pre-Ordered Material was specified to be shipped to the **BBSRB loading dock**. It will be the Construction Manager's responsibility to receive and off load the Pre-Ordered Material. If there is damage to the Pre-Ordered Material, then the Construction Manager is to notify the Owner's Project Manager immediately so that the Owner can seek replacement material.

ARTICLE 31 REMOVED ITEMS

31.1 The following is a list of items to be turned over to the Owner by the Construction Manager after removal by the Construction Manager. If there are additional items listed in the drawings to be turned over to the Owner, but not listed here, it shall be construed as being listed here.

1. To Be Determined

31.2 All items which are identified to be turned over to the Owner must be treated with the utmost of care and protected from damage during removal and transport.

31.3 Materials to be turned over to the Owner by the Construction Manager shall be delivered to a warehouse within a five (5) mile radius of the Project site.

ARTICLE 32 INTERIOR ENCLOSURE AND DUST ENCAPSULATION

32.1 Areas under construction or renovation shall be separated from occupied areas by suitable temporary enclosures furnished, erected and maintained by the Construction Manager. Temporary enclosures shall be dust and smoke tight and constructed of non-combustible materials to prohibit dirt and air borne dust from entering occupied spaces. Construction Manager to review with Consultant ways to provide ventilation for dust generated by demolition and fumes/vapors produced during installation of new materials.

32.2 Construction Manager is responsible for coordinating with the Owner's Project Manager any equipment to be turned off prior to erecting temporary enclosures.

32.3 Construction Manager shall protect all exhaust diffusers, equipment and electrical devices from the collection of dust. All areas shall be checked and cleaned prior to final acceptance of Work.

32.4 Dust and debris from Work operations shall be held to a minimum.

32.5 Construction Manager shall construct temporary dust partitions at locations and as detailed on drawings. Closures used for dust barricades shall be constructed of non-combustible materials, (metal studs and gypsum board or fire retardant plywood).

32.6 Construction Manager shall provide additional devices and materials as required to contain dust within Work area and protect personnel during course of Work.

32.7 Areas of minor renovation, consisting of the removal of doors and frames, blocking of openings, and other limited Work shall be separated by a dust partition of fire retarded polyethylene on studs.

32.8 Existing corridor doors may serve as dust barriers, except if removed for refinishing. In such cases, temporary wood doors must be substituted until original doors are replaced.

32.9 The Construction Manager may assume existing walls which extend full height of floor shall be deemed appropriate to contain air borne dust. Cover any voids or penetrations.

32.10 Doors or windows in the perimeter walls surrounding the project work area shall be sealed off with protective materials in a manner to prohibit dust from escaping the work area. These shall be left in place until all work creating dust is completed. Protective materials shall consist of fire retardant wood, metal studs, gypsum board or flame resistant plastic.

32.11 Entry passage to Work area shall be sealed off with zippered plastic opening, or other acceptable means which allows periodic entry and closure of barricade closure.

32.12 Install and maintain a “sticky mat” on the floor in locations where construction crews leave the construction area and prior to entering ANY existing space in the building.

32.13 Install and maintain a temporary floor covering in any and all elevators being utilized for this project.

ARTICLE 33 UKIT COMMUNICATIONS AND NETWORK SYSTEMS

33.1 The communications wiring is to be provided, installed and terminated by the Construction Manager using a certified and approved communications contractor. All work shall be done in compliance with the latest UKIT-Communications and Network Systems’ Standards, and closely coordinated with UKIT-Communications and Network Systems.

ARTICLE 34 EMERGENCY VEHICLE ACCESS

34.1 Emergency Vehicle Access must be maintained during construction. The Construction Manager shall coordinate with the local Fire and Emergency Medical Services department(s) that would respond to an emergency during the initial start up of construction to ensure a complete understanding of their requirements.

ARTICLE 35 SMOKE DETECTORS / FIRE ALARM SYSTEMS- EXISTING AND/OR NEW FACILITIES

35.1 Construction Manager shall protect all smoke detectors in Work areas to prevent false alarms. The Construction Manager will be responsible for any false alarm caused by dust created in their Work areas or dust traveling to areas beyond the Work, past inadequate protection barriers. If there is a need for an existing or newly installed fire alarm system or parts of that system to be serviced, turned off, or disconnected, prior approval must be obtained from the Owner's Project Manager and notification given to the Campus Dispatch Office. The Construction Manager must follow the procedure outlined for Utility Outages and any documented costs charged by the responding fire department due to a false alarm shall be paid by the Construction Manager. As soon as all Work is completed notification must be given to the Owner's Project Manager and to the Campus Dispatch Office prior to reactivation of the system. Prior to Final Payment to the Construction Manager, all protected smoke detectors will be uncovered and tested.

35.2.1 When any fire alarm, detection or suppression system is impaired, a temporary system shall be provided. Construction Manager shall provide daily reports indicating the Superintendent has walked through the project at the end of each work period, to satisfy himself there are no present conditions that may result in an accidental fire.

Portable fire extinguishers shall be on site during this time. The Construction Manager is responsible for inspecting and testing any temporary systems on a monthly basis.

ARTICLE 36 SURVEYS, RECORDS, and REPORTS

36.1 General: Working from lines and levels established by property survey, and as shown in relation to the Work, the Construction Manager will establish and maintain bench marks and other dependable markers to set lines and levels for Work at each area of construction and elsewhere on site as needed to properly locate each element of the entire Project. The Construction Manager shall calculate and measure from the bench marks and dependable markers required dimensions as shown (within recognized tolerances if not otherwise indicated), and shall not scale drawings to determine dimensions. Construction Manager shall advise Sub-contractors performing Work of marked lines and levels provided for their use in layout of Work.

36.2 Survey Procedures: The Construction Manager shall verify layout information shown on drawings, as required for his own Work. As Work proceeds, surveyor shall check every major element for line, level, and plumb (as applicable), and maintain an accurate Surveyor's log or Record Book of such checks available for Construction Manager or Design Consultant's reference at reasonable times. Surveyor shall record deviations from required lines and levels, and advise Design Consultant or Construction Manager promptly upon detection of deviations exceeding indicated or recognized tolerances. The Construction Manager shall record deviations which are accepted (not corrected) on Record Drawings.

ARTICLE 37 SMOKING IS PROHIBITED

37.1 For areas located within Fayette County, Kentucky, the use of all tobacco products is prohibited on all property that is owned, operated, leased, occupied, or controlled by the University. "Property" for purposes of this paragraph includes buildings and structures, grounds, parking structures, enclosed bridges and walkways, sidewalks, parking lots, and vehicles, as well as personal vehicles in these areas. To view the Lexington campus boundaries: <http://www.uky.edu/TobaccoFree/files/map.pdf>.

37.2 For areas not located within Fayette County, Kentucky, smoking is prohibited in all owned, operated, leased, or controlled University buildings and structures, parking structures, enclosed bridges and walkways, and vehicles. Smoking is also prohibited outside buildings and structures within 20 feet of entrances, exits, air intakes, and windows, unless further restricted by division policy.

37.3 Construction Manager's employees violating this prohibition will be subject to dismissal from the Project.

37.4 For the full Administrative Regulation see University AR 6:5. <http://www.uky.edu/Regs/files/ar/ar6-5.pdf>

ARTICLE 38 ALTERNATES

38.1 Alternate(s) will be accepted in the sequence of the Alternates listed on the Bid Form, and the lowest Bid Sum will be computed on the basis of the sum of the base Bid and any alternates accepted, within the budgeted amount.

38.2 Schedule of Alternates: **To Be Determined**

ARTICLE 39 FIELD CONSTRUCTED MOCK UPS

39.1 Exterior Finishes

39.1.1 After sample selection but prior to ordering exterior finish materials, Construction Manager shall accumulate enough material samples to erect sample wall panels to further verify selection made for color and textural characteristics, and to represent completed Work for qualities of appearance, materials and construction including sample masonry units (face and back-up wythes, plus accessories), window units, roofing finish, etc. to provide a complete representation of the exterior facade for approval by the Consultant; build mock-ups to comply with the following requirements:

39.1.2 Build mock-ups well in advance of the time the finish materials will be needed for inclusion in the Work.

39.1.3 Locate mock-ups at location as reviewed and approved by the Architect and University's Project Manager, generally within 10 feet of existing building, parallel to existing face of building, and exposed to sunlight during daylight hours. Mock-Up to be reviewed twice, one in direct sunlight and one in shade to confirm color characteristics of samples.

39.1.4 Mock-ups Size(s) for the following types shall be approximately 6' long by 4' high by full thickness.

Each type of exposed Work.

39.1.5 Protect mock-ups from the elements with weather resistant membrane.

39.1.6 Retain mock-ups during construction as a standard for judging completed Work. When directed by the University's Project Manager or by the Consultant, demolish mock-ups and remove from the site.

39.2 Interior Finishes

39.2.1 After sample selection but prior to ordering interior finish materials, Construction Manager shall accumulate enough material samples to erect sample to further verify selection made for color and textural characteristics, and to represent

completed Work for qualities of appearance, materials and construction; include samples of interior finishes, including paint, wood stain, vinyl wallcovering, flooring and ceiling materials to provide a complete representation for approval by the Consultant; build mock-ups to comply with the following requirements:

39.2.2 Build mock-ups well in advance of the time the finish materials will be needed for inclusion in the Work. Mock-ups may be on newly installed wall surfaces.

39.2.3 Locate mock-ups with adequate illumination for observation under intended light levels.

39.2.4 Retain mock-ups during construction as a standard for judging completed Work. When directed by the University's Project Manager or by the Consultant, remove mock-ups from site or incorporate into the completed work.

ARTICLE 40 PROJECT COORDINATION VIA COMPUTER

40.1 The Construction Manager is required to have an active email account to facilitate coordination of the project during construction and warranty.

40.2 To facilitate project construction coordination between the Consultant, the Construction Manager, and the University of Kentucky as the Owner, UK Capital Project Management Division (CPMD) is hosting an Internet/ Web-based Project Management System (WPMS) to help improve project communication and collaboration. The Consultant shall participate in the use of the WPMS (UK E-Communication® or other system at the Owner's discretion) providing collaboration between Owner, the Consultant and selected contractors.

40.2.1 Owner shall provide the Construction Manager with up to six user accounts and appropriate training for the web-based project management tool.

40.2.2 Utilization of, and training in the use of, the WPMS will be arranged for and supervised by Owner.

40.2.3 Participation of Construction Manager is mandatory; others as determined by Owner.

40.2.4 All participants are required to have access to the internet and the Microsoft Internet Explorer browser (version 5.0 or higher). A broadband connection to the internet (e.g. Cable modem, ISDN, DSL) is recommended, but not required.

40.2.5 The WPMS shall be utilized for the following functions, as a minimum: Posting Project Files, AE Amendments, Architect's Supplemental Information (ASI's), Closeouts, Defective Work in Place, Meeting Minutes, Reports (Contractor Daily Reports, Field Reports, Commissioning Reports), Punch Lists, RFIs, Schedules, Submittals, Proposed Change Orders – Change Orders (PCO to CO's), Contracts, Pay

Apps (pencil review), and Schedules. The Document Library (Bid set Plans, Specifications and Addenda will be uploaded by Lynn Imaging.

40.2.6 Site camera monitors may be included at Owner's discretion.

40.2.7 Utilization of the WPMS shall be implemented by the Owner's representative.

40.2.8 Use of the system will provide consistent, real-time information for decision making. Additionally, all project data entered into the system will be archived to facilitate project record keeping. It is anticipated that proper use of the WPMS will improve efficiency of communications and reduce project related paperwork and clerical workload.

ARTICLE 41 HOT WORK PERMITS

41.1 All work involving open flames or producing heat and or sparks in occupied buildings on the University of Kentucky campus will require the Construction Manager to obtain approval to perform "Hot Work" on site. This includes, but is not limited to: Brazing, Cutting, Grinding, Soldering, Thawing Pipe, Torch Applied Roofing, and Cad welding. A copy of the Hot Work Permit and the Hot Work Permit Procedure will be passed out at the Preconstruction Conference for the Construction Manager's use.

ARTICLE 42 INSURANCE

42.1 Employers' Liability Insurance. The Construction Manager shall acquire and maintain Employers' Liability insurance with at least \$500,000/\$500,000/\$500,000 limits of liability for all employees who will be working at the Project site.

42.2.1 Commercial General Liability Insurance. If the work involved requires the use of helicopters, a separate aviation liability policy with limits of liability of \$100,000,000 will be required. If cranes and rigging are involved, a separate inland marine policy with liability limits of \$100,000,000 will be required.

42.2.1.1 The limits of liability shall not be less than \$5,000,000 each occurrence combined single limits for bodily injury and property damage. If split limits are used, they shall not be less than \$2,000,000 for each person and each occurrence and \$1,000,000 for property damage.

42.2.2 Comprehensive Automobile Liability Insurance. Policy limits shall not be less than \$2,000,000 for combined single limits for bodily injury and property damage for each occurrence. As an alternative, split limits of not less than \$1,000,000 for bodily injury and \$500,000 for property damage for each occurrence shall be maintained.

42.2.3 Excess or Umbrella Liability Insurance. This policy shall have a minimum of \$50,000,000 combined single limits for bodily injury and property damage for each occurrence in excess of the applicable limits in the primary policies.

42.2.4 Workers' Compensation- Statutory Requirements (Kentucky)

ARTICLE 43 KEY ACCESS

43.1 If Construction Cores are NOT utilized, then one set of keys for access to the renovation project area will be provided to the Construction Manager/Vendor's Project Manager/Superintendent by the University's Project Manager. The Construction Manager/Vendor's holder of the key(s) assumes responsibility for the safekeeping of the key(s) and its use. When leaving the renovation area all doors must be secured.

43.2 All keys must be returned to the University's Project Manager upon completion of project work as one of the requirements for Final Payment. Failure to return the keys may require re-keying of all doors in the work area up to and including the entire building if master keys are issued. The cost of re-keying of the door(s) accessed by the key(s) will be subtracted from the remaining contract dollars including contract retainage.

43.3 All lost or stolen keys must be reported immediately to the University's Project Manager.

ARTICLE 44 CEILING CLEARANCE

44.1 Work above ceiling: All work above an area with lay-in ceiling must be coordinated and installed so there is a minimum of 4" between the top of the ceiling grid runners and bottom of the installation. Installation shall not obstruct equipment access space or equipment removal space. Also, conduit and pipe attached to the wall must be above the 4" minimum level.

44.2 Coordination Between Trades: Request and examine all drawings and specifications pertaining to the construction before installing above ceiling work. Cooperate with all other contractors in locating piping, ductwork, conduit, openings, chases, and equipment in order to avoid conflict with any other contractor's work. Give special attention to points where ducts or piping must cross other ducts and piping, and where ducts, piping and conduit must fur into the walls and columns. Make known to other trades intended positioning of materials and intended order of work. Determine intended position of work of other trades and intended order of installation.

ARTICLE 45 METAL ANCHORS

45.1 All anchoring devices utilized to secure materials to the building shall be metal. Plastic or plastic expansion components shall not be used. This shall include all fasteners for mechanical/electrical hangers.

ARTICLE 46 CONTRACTOR/SUPERINTENDANT EXPERIENCE

46.1 The General Contractor and Superintendent are required to both have a minimum of five (5) years of construction experience in the past 10 years in fully operating campus environment.

{Date.Long Date}

{Company.Name}
{Addresses.DisplayAddress}

Please furnish us with the following:

1. Please print pages three (3) and nineteen (19) of the following contract, complete, execute and return two copies of each page to Congleton-Hacker Company via United States Postal Service. Congleton-Hacker Co. will countersign and return an original signature page for your files.
2. Have your insurance agent provide us with a copy of your Certificate of Liability Insurance for our files. This certificate must indicate coverages and the additional insured clause as specified on the attached subcontractors' minimum insurance requirements.
3. Request for Project Data Information (Exhibit D). The enclosed form must be completed, signed, and returned to Congleton-Hacker Co. By furnishing this information you are agreeing that we may contact the parties for the purpose of obtaining information relating to this project. The sole purpose for this request is the protection of our project from mechanics and similar type liens.
4. Information for Application for Payment (as Enclosed)
 - a. Summary of Application for Payment Form. The completion of this summary form will assist us in processing your invoices.
 - b. Payments Estimate Supplemental Information Form. This form must be completed and submitted along with your Application for Payment.
 - c. Subcontractor, Supplier or Vendor Affidavit and Waiver of Lien. Your suppliers and subcontractors (as listed on the previous Payment Estimate Supplemental Information Form) must submit this release for your previous invoice payments.
 - d. Subcontractor Affidavit and Waiver of Lien. You must submit this release for your previous invoice payments.
 - e. **Invoices and all accompanying documentation are to be emailed to invoice@congleton-hacker.com.**

We ask that Items No. 1, 2 and 3 be furnished to us within ten (10) days of the date of this letter.

We are pleased to be working with you on this project and assure you our fullest cooperation.

Sincerely,

CONGLETON-HACKER COMPANY

{Projects.ProjectManager}
Project Manager

CONGLETON-HACKER COMPANY
872 Floyd Drive-Lexington, Kentucky 40505
www.congleton-hacker.com

Phone: 859.254.6481
Fax: 859.253.0442
Email: info@congleton-hacker.com

SUBCONTRACT

No.
{Contracts.ContractNumber}

CODE NO. {Contracts.C
VENDOR ID: SICode}0/04
{Contracts.T
oCompanyID
}

This Agreement (also referred to as “the Subcontract”), made this ({Contracts.ContractDate} "Long Date"), by and between Congleton-Hacker Company, a Kentucky Corporation (hereinafter called the “Contractor”), with its principal place of business located at 872 Floyd Drive, Lexington, Kentucky, and {ToCompany.Name} (hereinafter called the “Subcontractor”) a {Company.TypeOfBusiness} with its principal place of business at {Contacts.DisplayAddress}.

WHEREAS, Congleton-Hacker Company has contracted with {LegalDocInfo.Owner} (hereinafter “the Owner”) to provide labor and materials for the construction of the {Projects.Name} (hereinafter “the Project”) located at {Projects.Address}, and

WHEREAS, Subcontractor has proposed a price to perform a certain scope of Work identified in Article 1 (hereinafter “the Work”) on the Project, and

NOW THEREFORE, in consideration of the following, the parties agree:

Article 1. SCOPE. The Subcontractor shall furnish all labor, materials, supervision, tools, equipment, transportation, tests, permits, taxes and insurance necessary to expedite and complete in place all Work in connection with the {Contracts.ScopeOfWork} as described under Section(s) {Contracts.CSICode} of the specifications and/or shown on the drawings as prepared by {LegalDocInfo.ArchName} and which drawings and specifications are available on Contractor’s FTP site or other location or means designated by the Contractor. The Subcontractor shall perform the Work at the direction of Contractor and in accordance with this Agreement and the Contract Documents. Subcontractor shall perform all activities necessary or incidental to complete the Work set forth in Drawings and Specifications listed in Exhibit I to this Subcontract. Such performance shall be entirely acceptable to the Contractor and to the Owner and/or its duly authorized representative and in accordance with the Contract Documents.

1.1 Owner Purchased Items. If the Owner elects to furnish materials or equipment for the Project, then the scope of this Subcontract shall include any such Owner-furnished materials or equipment. (“Owner Furnished Items”). Owner Furnished Items, if any, are listed in Exhibit J to this Agreement and shall be used by the Subcontractor in completion of the Work. Subcontractor shall be responsible for proper handling, use and installation of Owner Furnished Items in accordance with the Contract Documents. Subcontractor shall maintain and preserve the quantity, quality, conformity and warranty of the Owner Furnished Items. Subcontractor shall prepare shop drawings, coordinate delivery, receive, unload, install, connect, start-up, commission, adjust and guarantee the Owner Furnished Items as part of Subcontractor’s Work.

1.2 Contract Documents. The Contract Documents for this Project are defined as, and consist of the agreement between the Owner and the Contractor, together with the conditions of the contract between the Owner and the Contractor (general, supplementary, and other conditions) (collectively the “Prime Contract”), all drawings, specifications, and all addenda issued prior to the execution of the agreement between the Owner and the Contractor, and all modifications and change orders issued subsequent thereto. The Contract Documents are available for examination by the Subcontractor upon request. The Subcontract Documents (also referred to as “this Agreement” or “the Subcontract”) shall include this Agreement and all exhibits incorporated herein together with “the Contract Documents.”

Subcontractor represents and agrees that it has carefully examined and understands the Contract Documents and the Subcontract Documents.

Article 2. SUBCONTRACTOR'S OBLIGATIONS. This Agreement is subject to all the provisions of the Contract Documents between the Contractor and the Owner and the Contract Documents are incorporated herein by reference and made a part hereof as if fully set out herein. It is agreed that the Subcontractor shall comply with all the requirements of the Contract Documents, perform all of the obligations and assume all the liabilities and responsibilities required of the Contractor under its contract with the Owner. Subcontractor agrees that Contractor shall have the same rights and remedies as against the Subcontractor as the Owner under the Contract Documents has against the Contractor. In the case of an inconsistency between this Agreement and the Contract Documents, the provision imposing the greater or more stringent duty or obligation on the Subcontractor shall govern, unless Contractor in its sole discretion determines otherwise as to any specific inconsistency.

2.1 Sub-subcontractors and Material Suppliers. The Subcontractor shall not subcontract to third parties any part of its Work without the written consent of the Contractor, and such consent does not in any way relieve the Subcontractor from any provision of this Agreement or the Contract Documents. Such sub-subcontracted Work must be under terms and conditions that specifically incorporate the terms and conditions of this Agreement and the Contract Documents. Subcontractor shall provide a list of proposed sub-subcontractors and material and equipment suppliers and submit this information on the Project Information Form, (Exhibit "D" to this Subcontract) within ten calendar days of the date of the Letter of Intent or the date of this Agreement, whichever is earlier.

Because time is of the essence, the Subcontractor shall submit copies or electronic files of Shop Drawings, Catalogue Cuts, Brochures, Schedules and/or Samples as required in the Specifications on/or before (date) for materials and/or equipment it is furnishing. The Subcontractor shall be responsible for the accuracy of the submittals, as well as the conformance with the Contract Documents.

Subcontractor shall ensure that its sub-subcontractors and suppliers cooperate with Contractor and all other subcontractors whose work is dependent upon the progress of the Subcontractor's Work, and shall participate as needed in the preparation of coordination drawings and work schedules. Subcontractor and its sub-subcontractors shall follow Contractor's directives to keep the Project free from debris and unsafe conditions resulting from Subcontractor's Work, and daily cleanup of Subcontractor's Work areas.

2.2 Workmanship. Subcontractor's Work shall be performed in strict accordance with this Agreement and the Contract Documents in a workmanlike manner. The workmanship shall be the best of the kind performed by others in the same trade. All materials shall be new, conform to the Contract Drawings, and be furnished timely and in appropriate quantities.

2.3 Temporary Services. Unless otherwise provided in this Subcontract, Subcontractor shall provide all temporary services and facilities necessary to perform its Work, including but not limited to heat, electrical power, telephone, water and other utilities.

2.4 Progress Reports and Meetings. Subcontractor shall provide progress reports as required, including status of schedule and materials and equipment being manufactured for incorporation into the Work. An authorized representative of Subcontractor shall also attend all progress and/or coordination meetings held by Contractor.

2.5 Authorized Representative. The Subcontractor shall designate in writing the person(s) who shall serve as the Subcontractor's authorized representative on-site and off-site. This person or these persons shall bind the Subcontractor with respect to all Project documents, including but not limited to

Change Orders, and shall be the person to whom Contractor shall issue instructions and direction, except in the case of an emergency.

On-Site Representative: _____

Off-Site Representative: _____

Contractor may, in its discretion require Subcontractor to dismiss from the Work any personnel of Subcontractor or any of its subcontractors, including the Authorized Representative, for any reason, effective upon written notice from the Contractor of such dismissal request. Subcontractor agrees to ensure the continuity of personnel assigned to perform the Work. Any removal or reassignment of personnel assigned to perform the Work shall be with replacements who will have substantially equivalent or better qualifications than the persons replaced. There will be no charge to Contractor while the replacements acquire the necessary training and familiarity with the Work.

2.6 Compliance with All Laws. At all times, and at Subcontractor's own costs, Subcontractor shall comply with all federal, state and local laws, statutes, codes, rules, regulations, ordinances, executive orders and other laws relating to the Project and the Work. Subcontractor warrants and represents that it is authorized to transact business in the state and local jurisdictions where the Project is located, that it holds any and all licenses necessary to perform the Work and that it has not violated any statutes, codes, rules, regulations, ordinances, orders and/or other laws on other projects. Contractor shall have the right to request, and Subcontractor shall promptly provide, proof of Subcontractor's licensure. Subcontractor is solely responsible for all matters relating to compensation and benefits of all of Subcontractor's personnel who perform the Work. This responsibility includes but is not limited to: (1) timely payment of compensation and benefits, including overtime, medical, dental and any other benefit, and (2) all matters relating to compliance with all employer obligations to withhold employee taxes, pay employee and employer taxes and file payroll tax returns and information returns under local, state and federal income tax laws, unemployment compensation insurance and state disability insurance tax laws, social security and Medicare tax laws, and all other payroll tax laws or similar laws with respect to all Subcontractor personnel providing Work. Subcontractor shall, upon request, provide Contractor or Owner with proof of compliance. Subcontractor shall indemnify, defend and hold Owner and Contractor harmless from all liabilities, costs, expenses and claims related to Subcontractor's failure to comply with this Section.

2.7 Permits and Fees. The Subcontractor shall notify, secure and pay for all permits, fees, licenses, assessments, inspections and taxes necessary for the performance, completion or use of the Subcontractor's Work.

2.8 Use of Contractor's Equipment. The Subcontractor, its agents, employees, Subcontractors or suppliers shall provide all equipment necessary to perform the Work. Contractor is not responsible for, nor does it intend to provide equipment for Subcontractor's use.

2.8.1 If Contractor determines, in its sole discretion, that Subcontractor may make de minimus use only of Contractor's equipment, and only if Contractor's authorized representative has provided express written permission for Subcontractor to make de minimus use of Contractor's equipment, and only if Subcontractor has provided an executed Waiver, which is Exhibit F to this Subcontract, to Contractor, may Subcontractor make limited use of Contractor's equipment, solely for convenience and solely at the discretion of the Contractor. If the Subcontractor or any of its agents, employees, suppliers or lower tier Subcontractors utilize any machinery, equipment, tools, scaffolding, hoists, lifts or similar items

owned, leased, or under the control of Contractor, the Subcontractor shall be liable to Contractor (as provided in Article 5 herein) for any loss or damage (including personal injury or death) which may arise from such use, except where such loss or damage shall be found to have been due solely and exclusively to the negligence of Contractor's employees operating such equipment. Subcontractor agrees that it is using the equipment at its own risk, and uses the equipment as is, without any representations or warranties from Contractor.

2.8.2 Subcontractor shall indemnify, defend and hold Contractor harmless from any loss, claim, damage, or other costs, fees and/or expense (including personal injury, property damage or death), which may arise from Subcontractor's use of Contractor's equipment, including the use of Contractor's equipment by Subcontractor's employees, agents, sub-subcontractors or suppliers or any other party for whom Subcontractor may be liable, except where such loss or damage is determined to have been solely and exclusively the fault of Contractor.

2.8.3 Subcontractor shall provide only qualified, skilled and trained operators of Contractor's equipment. Contractor shall be entitled to request proof of training and skill at any time, and Subcontractor shall discontinue use of Contractor's equipment until it has provided such proof satisfactory to Contractor.

2.8.4 Subcontractor shall provide all maintenance, fuel and other items necessary for operation of Contractor's equipment during Subcontractor's use of the equipment.

2.8.5 Subcontractor shall return the equipment in the same or better condition than the condition of the equipment upon receipt, and Subcontractor shall repair any and all damage to the equipment.

2.8.6 Subcontractor shall not permit other subcontractors or other persons to use Contractor's equipment.

2.9 Clean Up. The Subcontractor shall follow Contractor's clean-up directives and those of the Contract Documents, and at all times keep the building and premises free from debris and unsafe conditions resulting from the Subcontractor's Work; and broom clean each Work area daily prior to discontinuing Work in the same.

Should Subcontractor fail, within 24 hours after notice from Contractor, to appropriately clean an area as required by this Section, Contractor shall assess the Subcontractor for the actual daily clean-up cost or a daily charge of \$200.00, whichever is greater, for each day such condition is not remedied.

Article 3. SCHEDULE, DELAY AND LIQUIDATED DAMAGES. Time is of the essence, and Subcontractor agrees to furnish all materials and perform all Work at whatever pace necessary to complete the Project in accordance with the Contractor's schedule ("the Project Schedule") at no additional cost to Contractor. The Project Schedule is a document prepared by the Contractor, (available to Subcontractor on Contractor's FTP Site or other location or means designated by the Contractor), and updated from time to time by the Contractor. The Subcontract Work is critical to the timely completion of the Project. In order to ensure timely performance in accordance with Contractor's Project Schedule, as updated from time to time, Subcontractor shall commence its Work within five (5) business days after receipt of Contractor's written notification to proceed. The Subcontractor shall provide the manpower, materials and equipment necessary to begin and continue Work to achieve completion within the time set forth in the Project Schedule.

3.1 Sequence of Work. Subcontractor acknowledges and agrees that Contractor may revise the sequence of the Work as the Project progresses, but no extension of time will be valid without Contractor's written consent. Contractor may require, without additional cost to Contractor and/or Owner, Subcontractor to prosecute the Work at a sequence and timing as the progress of the Project dictates. It is

understood and agreed that the scheduling and sequencing of the Work is the exclusive right of Contractor and that Contractor may resequence Subcontractor's Work as the demands of the Project require without any additional cost or expense paid to Subcontractor. Contractor shall also have the right to decide on the time, order and priority in which portions of the Work shall be performed and all other matters relative to the timely and orderly conduct of the Subcontractor's Work.

3.2 Delays by Subcontractor. If, in the sole opinion of Contractor, Subcontractor falls behind in the progress of the Work, Contractor may direct Subcontractor to take such steps as Contractor deems necessary to improve the progress of the Work. Such direction may include, without limitation, requiring Subcontractor to increase the number of shifts, personnel overtime, days of Work, equipment, plant or other remedies. Subcontractor shall submit to Contractor for Contractor's approval a schedule demonstrating how the required rate of progress will be achieved without additional cost to Owner or Contractor.

3.3 Cooperation and Coordination. The Subcontractor shall cooperate with Contractor by scheduling and performing its Work so as to avoid conflict, delay or interference with the work of Contractor, other subcontractors or Owner's separate contractors. Subcontractor shall participate in any inspections relating to Substantial and Final Completion.

3.4 Schedule Impacts. If the progress of Subcontractor's Work is substantially delayed without the fault of or caused by Subcontractor, then the Subcontractor must provide written notice to Contractor within five (5) days of the event giving rise to the delay or the claim shall be waived. If Subcontractor provides timely written notice of the claim within five (5) days of the event, and the delay, hindrance or impact to Subcontractor's Work is not caused by the Subcontractor, then the time for Subcontractor's Work may be extended by Change Order to the extent obtained by Contractor under the Contract Documents.

Contractor shall not be liable to the Subcontractor for any damages or additional compensation as a consequence of delay, schedule impacts, hindrances, interferences, acceleration, compression or other time related claims (hereinafter referred to as "Schedule Impacts") caused by any person not a party to this Agreement, other than the Owner, unless Contractor has first recovered the same on behalf of Subcontractor from said person, and then only to the extent of such recovery after payment to Contractor of all attorneys' fees and other expenses it incurred relating thereto.

With respect to claims by Subcontractor for delay caused by Owner, Subcontractor agrees that it may only seek additional compensation for proven delay to the critical path, and only to the extent of documented and proven actual costs, and only if timely notice has been provided in accordance with this Subcontract.

Notwithstanding anything to the contrary herein, under no circumstance shall Subcontractor be entitled to seek from Contractor additional compensation or damages for actual or alleged loss of efficiency, constructive acceleration, lost productivity, stacking of trades, home office overhead, expectant underrun, season change premium, extended overhead, impact damages, quantum meruit, profit upon damages for delay or similar damages calculated by formula or trade data or studies.

3.5 Liquidated Damages. To the extent that Subcontractor's Work results in Liquidated Damages being assessed against Contractor by Owner, Subcontractor agrees to immediately pay to Contractor the proportionate share or all of the Liquidated Damages resulting from or caused by Subcontractor's performance, and/or to permit set-off by Contractor of such sums against sums otherwise due Subcontractor.

Article 4. INSURANCE. Upon execution of the Subcontract, and before commencing Work, the Subcontractor shall secure such insurance as required by Exhibit C to this Subcontract for at least those minimum specified limits, and shall furnish a certificate from its carrier to the Contractor, identifying

Contractor and Owner, and/or others as required by the Contract Documents, as additional insureds on the policies. All policies must be issued by insurance carriers acceptable to the Contractor, and shall remain in force through Final Completion of the Project.

Article 5. INDEMNIFICATION. Subcontractor agrees to hold harmless, indemnify and defend, the Contractor, its Surety, and the Owner from all loss as a result of Subcontractor's acts or failure to act, including reasonable attorneys' fees and court costs. Additionally, Subcontractor shall indemnify, hold harmless and defend the Contractor, the Owner, and other contractors and subcontractors from and against all claims, damages, losses and expenses, including but not limited to attorneys' and consultants' fees, arising out of or resulting from the performance of the Work, provided that:

5.1 Bodily Injury or Property Damage. Such claim, damage, loss or expense is attributable to bodily injury, personal injury, sickness, disease or death, or to damage to or destruction of tangible property (other than the Work itself) including the loss of use therefrom, to the extent caused or alleged to be caused by any act or omission of the Subcontractor or any person directly or indirectly employed by the Subcontractor or anyone for whose acts the Subcontractor may be liable (including sub-subcontractors and material suppliers).

5.2 Liens or Claims. Such claim is asserted against or through the Contractor, Owner or Owner's property, including but not limited to liens for labor performed or materials used or furnished through Subcontractor, its sub-subcontractors, and/or suppliers.

5.3 Compliance with Laws. Such liability is imposed upon Contractor or Owner as a result of Subcontractor's failure or the failure of any of its employees or sub-subcontractors or materials suppliers to comply with laws, ordinances, rules, regulations, policies or requirements, including but not limited to any Occupational Safety and Health Administration violations, Immigration violations, Owner policies and rules violations, confidentiality violations and any penalties, including enhancements, resulting from, in whole or in part, Subcontractor's acts or omissions.

5.4 No Limitation of Liability. In any claims against the Owner, Contractor and other contractors or Subcontractor, by any employee of the Subcontractor, anyone directly or indirectly employed by the Subcontractor or anyone for whose acts the Subcontractor may be liable, the indemnification obligation in this Article 5 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under worker's compensation acts, disability benefit acts or other employee benefits acts.

Article 6. CHANGES TO THE WORK.

6.1 Changes. Contractor may, by Contractor's written directive or Subcontract Change Order, make changes in the Work within the scope of this Subcontract, and Subcontractor shall perform such changes. A Subcontract Change Order is a written document prepared by Contractor and signed by the Subcontractor, setting forth their agreement on a change in the scope of the Work, a change in the Subcontract Price, or a change in the Subcontract Schedule. Any adjustments to the Subcontract Price or Schedule relating to the changed Work must be set forth in the Subcontract Change Order, or the claim will be waived. A Contractor's written directive is a written document prepared by the Contractor's authorized representative directing a change in the Work, and stating a proposed adjustment, if any, in the Subcontract Price or Schedule. A Contractor's written directive will be used in the absence of agreement on the terms of a Subcontract Change Order, and Subcontractor shall perform the Work set forth therein. If ordered by Contractor's authorized representative to proceed by written directive, Subcontractor shall be responsible for tracking all costs incurred in the changed Work, including but not limited to signed time sheets, actual invoices and equipment rental or other documents requested by Contractor, and shall submit these documented records to Contractor within five (5) business days of performing the Work for Contractor's

consideration. The signing of extra work tickets by the Contractor's representative shall be for verification of hours worked and materials used only. Approval of additional cost or a change to the Subcontract is subject to the terms and scope of this Agreement. In no event will compensation be paid to Subcontractor for additional Work performed based upon estimates, unless agreed upon in a Subcontract Change Order signed by both parties. Extensions of time will be considered only upon proof that the Work affected was on the critical path. Failure to document its actual costs incurred in performing additional Work may result in waiver of Subcontractor's claim for additional compensation, as determined by Contractor.

No adjustments in the Subcontract Price or Subcontract Schedule for any Work performed by Subcontractor shall be effective unless the additional Work has been ordered by Contractor in writing. If Subcontractor proceeds with additional Work without the requisite Subcontract Change Order or written directive by Contractor, Subcontractor proceeds at its own risk and at its own cost.

6.2 Change Orders Final. Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including but not limited to, all direct and indirect costs associated with such change, any impact such change may have on the unchanged Work, and any and all adjustments to the Subcontract Price and the Project Schedule. In the event a Change Order increases the Subcontract Price, the Subcontractor shall include the Work covered by such Change Orders in Applications for Payment as if such Work were originally part of the Contract Documents. Any Change Order shall contain a breakdown of the adjustment between labor, equipment, and materials, together with substantiating data.

6.3 Method of Adjustment: If a change in the Work requires an adjustment in the Subcontract Price, the adjustment shall be established by one of the following methods:

- a. mutual agreement on a lump sum with agreed markup of 10%, and sufficient substantiating data to permit evaluation;
- b. unit prices already established in the Subcontract Documents or if not established by the Subcontract Documents, then established by mutual agreement for this adjustment; or
- c. determined by Contractor on the basis of reasonable costs and savings attributable to the change, including itemized and substantiated accounting of the following items attributable to the change:
 - (i) labor costs, including Social Security, health, welfare, retirement and other fringe benefits as normally required, and state workers' compensation insurance;
 - (ii) costs of materials supplies and equipment, whether incorporated in the Work or consumed, including transportation costs;
 - (iii) costs of renting, either from Contractor or from others, of machinery and equipment other than hand tools;
 - (iv) costs of bond and insurance premiums, permit fees and taxes attributable to the change;
 - (v) costs of additional supervision and field office personnel services necessitated by the change; and
 - (vi) Markup (inclusive of overhead and profit) of sub-tier subcontractors, vendors or equipment suppliers not to exceed a rate of ten per cent.

6.4 Notification of Claims. Subcontractor shall notify Contractor in writing of all claims for which the Owner may be liable in the manner provided in the Contract Documents, and with sufficient time for Contractor to review the claim and timely assert the claim against the Owner. Subcontractor shall notify Contractor in writing of any other claims, whether relating to the Subcontract Price or the Subcontract Schedule, within five (5) business days of the beginning of the event giving rise to the claim. If the claim is not timely made, the Subcontractor's claim is waived. All unresolved claims and disputes shall be resolved in the manner provided in Article 14.

Article 7. SUBCONTRACT PRICE AND PAYMENT.

7.1 Price. Expressly contingent upon the performance by Subcontractor of the terms and conditions of this Agreement, the sum to be paid by the Contractor to the Subcontractor as its total compensation for the furnishing of materials and performing the services required of it under this Subcontract shall be:

{{Contracts.OrigValue} "NumToText"} Dollars {{Contracts.OrigValue}}

7.2 Schedule of Values and Time of Application. Subcontractor shall provide a proposed Schedule of Values to Contractor at least seven (7) calendar days prior to Subcontractor's first application for payment, which may be revised if necessary for approval by Contractor. For Work performed during a payment period, Subcontractor shall apply for a progress payment using the form attached to this Agreement as Exhibit E. Applications for Payment shall be submitted by the twentieth (20th) day of the month. The application shall be for Work performed including the last day of the pay period, and showing Work completed, and to the extent permitted under the Contract Documents and approved for payment by the Owner, material suitably stored and protected.

7.3 Time of Payment and Nonpayment by Owner. The obligation of the Contractor or its Surety under any performance or payment bond to make a payment under this Subcontract, whether a progress or final payment (or for extras, delays to the Work or claims) is subject to the express condition precedent of payment therefore by the Owner to Contractor. Progress payments to the Subcontractor for satisfactory performance of the Subcontractor's Work shall be made within seven (7) business days after the related payment is received from the Owner. Subcontractor will be paid all undisputed invoiced progress payments due Subcontractor under the terms of this Subcontract, in a sum equal to **90%** of the approved value for labor and materials incorporated in the Work and **90%** of materials suitably stored up to the billing date, if any, less the aggregate of previous payments.

.1 Nonpayment by Owner; Assumption of Risk. The Subcontractor agrees that the Contractor has no obligation to pay Subcontractor for any Work performed on the Project until Contractor has been paid by the Owner, unless the Owner's express reason for withholding payment to Contractor is due solely to the default of Contractor, and is not caused, in whole or in part, by Subcontractor. The provisions of this Subcontract stating the time and amount of progress and final payments are subject to the condition that Contractor shall receive from the Owner progress payments, payments for change orders or final payments in at least the amounts payable to the Subcontractor on account of Work done by the Subcontractor on this Project. Except as specifically provided herein, the time when such payments shall be due the Subcontractor shall be postponed until Contractor has received payment from the Owner. The Subcontractor acknowledges that it relies solely on the Owner's credit and its ability to fund payments under this Subcontract and does not rely upon Contractor. The Subcontractor agrees that the liability of the surety on Contractor's performance or payment bond, if any, is subject to the same conditions precedent as are applicable to Contractor's liability to the Subcontractor under this Subcontract.

.2 Other Conditions Precedent to Partial Payment. Payments shall not be due until the following conditions have been satisfied:

- .a This Agreement has been signed and returned to Subcontractor, and all exhibits executed, including but not limited to Exhibit D (Project Information Form) and,
- .b Insurance Certificates have been properly completed and received,
- .c Schedule of values has been received and approved,
- .d Waivers of liens and claims from all sub-subcontractors and vendors demonstrating payment by Subcontractor for the prior months of the Project,
- .e If requested, evidence demonstrating that payroll taxes and other contributions required by law have been paid by Subcontractor,
- f. Consent of Surety, if applicable, and
- g. Any other documentation requested by Contractor.

.3 Payment Not Acceptance. No payment to Subcontractor shall imply or demonstrate acceptance by Contractor or Owner of any portion of Subcontractor's Work.

.4 Stored Materials. Unless otherwise limited or restricted by the Contract Documents, applications for payment may include suitably stored and protected materials at the Project site or some other location upon approval in advance by the Owner. Approval of a payment application including stored materials shall be conditioned upon provision by Subcontractor of bills of sale and applicable insurance and other documents specified by the Owner or Contractor. Payment to Subcontractor for stored materials shall not relieve Subcontractor of responsibility for proper storage and responsibility for the materials.

7.4 Retainage. Upon completion of **50%** of the Project as adjusted by Change Orders, when approved by the Owner and/or Architect, and upon completion of **50%** of the Work under this Subcontract, retainage upon all remaining progress payments will be based upon 5% of the Subcontract Price as adjusted by Change Orders, providing the progress of the Work continues satisfactorily and the Owner accepts and continues to make progress payments to the Contractor on the basis of reduced retainage.

7.5 Final Payment: Application and Requirements. Final Payment will be paid within seven (7) business days after receipt of final payment from the Owner and receipt by the Contractor of all required releases, lien waivers and other documents. Before issuance of Final Payment to Subcontractor, and at such times as may be requested, the Subcontractor shall submit evidence satisfactory to the Contractor and to the Owner and/or its duly authorized representative that all payrolls, material bills, and other indebtedness connected with the Project have been paid. Before Final Payment shall be due under this Subcontract, the following must be provided to Contractor as express conditions precedent:

- .1 Affidavit that all indebtedness, payrolls and invoices related to Subcontractor's Work, for which the Owner or Owner's property, or Contractor or Contractor's surety may be liable, have been paid or otherwise satisfied;
- .2 Consent of surety to Final Payment, if applicable;
- .3 Satisfaction of any required close-out procedures required by Owner or Contractor;
- .4 Provision of other data required by Owner or Contractor;

.5 Written warranties, guarantees, product data and/or operations manuals relating to Subcontractor's Work;

.6 Record drawings or as-built relating to Subcontractor's Work.

.7 Any other documentation required by Contractor.

Final payment shall constitute a full waiver and release of all claims by Subcontractor, but shall not relieve Subcontractor of liability for defective Work appearing after payment, or for continuing obligations hereunder.

7.6 Subcontractor Failure to Make Payments. Subcontractor shall use payments received from Contractor solely to make payments for labor or materials furnished in performing the Subcontractor's Work on this Project, and shall not use payments to satisfy any indebtedness on other Projects. Contractor shall have the right to contact Subcontractor's sub-subcontractors and vendors to ensure that they are being paid by the Subcontractor for labor and materials furnished on this Project.

7.6.1 If Contractor has reason to believe that Subcontractor has not paid for labor, material or other obligations, Subcontractor shall supply evidence satisfactory to Contractor within 48 hours that its sub-subcontractors and suppliers have been paid, or

7.6.2 Subcontractor shall provide a bond in a form and with a surety satisfactory to Contractor, indemnifying Owner, Contractor and the Project from liens or claims.

7.6.3 Contractor shall also have the right to:

.a Retain monies due or becoming due to Subcontractor on this Project or any Project of Contractor's, a reasonable amount to protect Contractor from and against all loss, damage or expense including attorneys' fees arising out of or relating to a claim or lien of a sub-subcontractor or vendor of Subcontractor,

.b Issue joint checks payable to the Subcontractor and a claimant from sums otherwise due Subcontractor,

.c Make direct payments to the claimant from sums otherwise due Subcontractor, and/or

.d Bond off any lien at Subcontractor's cost,

.e And Contractor may backcharge all costs, attorneys' fees and other expense arising from or relating to Subcontractor's nonpayment.

7.7 Grounds for Withholding Payment. Contractor may withhold payment from Subcontractor for the following reasons:

.1 Defective Work not cured; materials not furnished or failure to clean up;

.2 Damage to the Project, the Subcontractor's Work or the Work of others caused by Subcontractor;

.3 Claims, penalties, attachments, levies, liens, stop notices or court orders filed or other reasonable evidence that such claims will be filed, including claims covered by insurance until such claims are accepted and paid by the carrier;

.4 Failure by Subcontractor to make payments properly to its subcontractors for labor, including fringe benefits, materials or equipment, transportation or shipping costs, taxes, fees or other claims arising out of the Subcontractor's Work;

.5 Reasonable evidence that the Work cannot be completed for the balance of the Subcontract Price;

.6 Reasonable doubt that the Work will be completed on schedule due to Subcontractor's acts or omissions;

.7 Subcontractor's failure to timely provide any deliverables set forth in this Agreement, including but not limited to insurance certificates, record drawings, warranties or guarantees or approvals;

.8 Any other material breach of this Agreement.

7.8 Right to Issue Joint Checks. Subcontractor agrees and expressly authorizes Contractor to issue joint checks to Subcontractor and its sub-subcontractors, vendors and/or suppliers. Subcontractor understands and agrees that Contractor shall only issue payments and/or joint checks if there are sums undisputedly due and owing Subcontractor pursuant to the terms of this Subcontract Agreement. Subcontractor shall cooperate with Contractor in the administration and delivery of the joint checks to Subcontractor's sub-subcontractors, suppliers and vendors. Refusal to cooperate with Contractor in the issuance and delivery of joint checks shall be a default of this Subcontract, and Contractor shall be entitled to exercise all rights and remedies it has under this Agreement in the event of default

Article 8. SITE INSPECTION. Subcontractor represents and warrants that it has been to the Project site, has become familiar with existing conditions and correlated the existing conditions with the requirements of the Contract Documents, and that it fully understands the facilities, restrictions and challenges involved with performing the Work. Subcontractor further represents and warrants that it has examined all of the Contract Documents, including but not limited to any policies and rules of the Owner, requirements of various governmental agencies and others having jurisdiction over the Project. Finally, Subcontractor has performed its own investigation as to the nature and location of the Work, the local conditions and all matters which affect the Work, and that it is not aware of any existing conditions, circumstances or requirements that will necessitate a change in the scope of the Work, the Price or the Schedule.

Article 9. WARRANTY AND CORRECTION OF WORK. Subcontractor warrants to the Owner and to Contractor that materials and equipment will be of good quality and new unless otherwise required or permitted by the Subcontract, that the Work will be performed in a good, workmanlike manner, be free from defects in materials and workmanship, and that the Work will conform with the requirements of the Subcontract and the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective in the sole judgment of Contractor. This warranty shall be in addition to and not in limitation of any other warranty or remedy provided by law or the Subcontract. Subcontractor shall warrant its work for a period of one year following the Owner's defined commencement date for warranties as set forth in the Contract Documents. If the warranty period is not specifically designated, then the parties agree that the warranty period shall extend for the period set forth in the agreement between the Owner and the Contractor. This warranty shall be in addition to any special or additional equipment and material warranties required by the Contract

Documents. Subcontractor further agrees to execute and deliver any additional guarantees or warranties specified in the Contract Documents.

9.1 Correction of Work. Subcontractor shall promptly correct Work failing to conform to the Contract Documents or Work rejected by Contractor, Owner or Architect, whether observed before or after Substantial or Final Completion, and whether or not installed or completed. Subcontractor shall be obligated to correct Work that is not in accordance with the Contract Documents after Substantial Completion to the same extent that Contractor is bound to Owner for correction of Work. Upon notification, Subcontractor shall begin corrective Work immediately and shall diligently perform all corrections or replacements necessary to remediate all non-conforming or defective Work and render it acceptable to Contractor, Owner and Architect.. This obligation survives the acceptance of the Work and/or termination of the Subcontract. This obligation is in addition to, and not in limitation of the warranty obligations herein; it being the intent of this Subcontract that Subcontractor's obligations to correct defective Work are not restricted by Subcontractor's warranty obligations.

9.2 Satisfaction of Warranty and Corrective Work Obligations. As set forth herein, Subcontractor agrees to satisfy warranty and corrective Work obligations at no cost to the Owner or Contractor. If corrective action is not initiated or completed within a time reasonable under all of the circumstances, then Contractor shall commence investigation and correction at Subcontractor's expense. In the event that Subcontractor fails to satisfy these obligations timely, all costs for design, labor, management, supervision, materials, travel (including all mileage, meals, lodging), equipment and overhead (at 15% of costs) incurred by Contractor in the investigation and correction of any such issue shall be paid to Contractor by Subcontractor within seven (7) calendar days of receipt of invoice. Contractor's rights hereunder shall be in addition to all other rights and remedies of this Subcontract and at law, and in no way relieve the Subcontractor of its primary responsibility for performing and warranting the Work in accordance with the Subcontract documents.

Article 10. IMMIGRATION. Subcontractor shall comply with all requirements imposed upon employers under the Immigration Reform and Control Act of 1986 ("IRCA"), with regard to every Subcontractor employee ("Worker") who will perform services for Subcontractor related to this Subcontract. Subcontractor further agrees that Subcontractor is the "employer" as that term is defined in 8 C.F.R. Section 274a.1(g), and that Contractor is not the "employer" as so defined respecting Workers. In compliance with its duties under IRCA, Subcontractor shall:

10.1 I-9s. Have sole responsibility for completing Form I-9 for all Workers who provide services relating to this Subcontract, and it will further update such forms to the extent required by law. Subcontractor warrants that all of Subcontractors' employees who complete Form I-9 for Workers will be knowledgeable of all Form I-9 requirements, including but not limited to, knowledge of which documents do and do not satisfy the requirements of Form I-9, and that such employees will otherwise complete Form I-9 in full compliance with IRCA.

10.2 Warranty of Employment Authorization. Subcontractor warrants that no Worker will provide services relating to this Subcontract until Subcontractor has completed Form I-9 for such Worker in the manner required by IRCA. Subcontractor further warrants that it will not permit any Worker to perform services relating to this Subcontract who Subcontractor knows or has reason to believe is not authorized to work in the United States, regardless of whether such individual is able to produce documents which satisfy the requirements of Form I-9. Subcontractor understands that Contractor is acting in reliance upon Subcontractor's warranty.

10.3 Removal of Workers Not Authorized for Employment. If Subcontractor learns or has reason to believe that any Worker is not authorized to work in the United States, Subcontractor shall immediately so inform Contractor, and Subcontractor shall not assign Work to such Worker. If Contractor

learns or has reason to believe that any Worker is not authorized to work in the United States, upon notification by Contractor, Subcontractor shall immediately cease assigning Work to any such Worker. A failure of Subcontractor to take immediate action upon notice from Contractor shall be a material breach and grounds for default termination under this Subcontract.

10.4 Indemnification and Hold Harmless. In the event that a government agency, Owner or Contractor determines that any Worker hired by a Subcontractor is not authorized to work in the United States, Subcontractor shall indemnify and hold Contractor harmless, as well as any agents, employees, officers, directors, trustees or other persons acting on Contractor's behalf, from any liability incurred by Contractor as a result of such determination. Such indemnification shall include, but not be limited to, civil or criminal fines or penalties assessed, alleged and any costs incurred in responding to or participating in any government or Owner investigation, finding, recommendation, hearing, appeal or any other proceeding, including attorneys' fees and costs, as well as any costs, fees or damages assessed or incurred by Contractor or Owner.

10.5 Consequential Damages and Effect on Schedule. If Subcontractor is terminated due to noncompliance with this Article, or if Subcontractor's Work force is adversely impacted by the removal of Workers not authorized to work in the United States from the Project in compliance with this Section, Subcontractor shall be liable to Contractor for any and all damages, costs, fees, including but not limited to schedule recovery costs, re-procurement costs and all other costs recoverable under this Subcontract.

Article 11. HAZARDOUS SUBSTANCES. In order to comply with laws that require an employer to timely notify employee of the use of Hazardous Substances, Subcontractor shall timely provide a current copy of the Material Safety Data Sheet (MSDS) for any Hazardous Substance or Chemical that Subcontractor intends to bring to the Project site.

11.1 Removal of Hazardous Substances. Subcontractor shall be responsible for timely removal of any Hazardous Chemicals and/or Substances that are brought to the Project site, but are not consumed or used, as well as all waste generated from the Work. Such removal shall comply with all laws, regulations, codes, permits and ordinances.

11.2 Discharge. Subcontractor shall conduct the Work in a manner to avoid the discharge, dispersal, escape, release or saturation of any pollutant into the atmosphere or into any body of water or on, onto, upon in or into the surface or subsurface of land unless permitted by federal, state or local laws, regulations, ordinances or permits.

11.3 Existing Hazardous Conditions. If the Subcontractor encounters material reasonably believed to be asbestos, polychlorinated biphenyl ("PCB") or other Hazardous Substances at the Project site that have not been rendered harmless, the Subcontractor shall **immediately stop** Work in the area affected and immediately report the condition to Contractor in writing. The Work in the affected area shall resume in the absence of asbestos, PCB, or Hazardous Substances, or when it has been rendered harmless, or by being reduced to a safe level or concentration, or by written agreement of Contractor and Subcontractor, or by an award from the parties' dispute resolution as provided herein.

11.4 Indemnification. To the fullest extent permitted by law, the Subcontractor shall indemnify, defend and hold harmless Contractor, Owner and other subcontractors, and each of their employees and agents, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees arising from or relating to performance of the Work in the affected area if the material is asbestos, PCB or other Hazardous Chemical or Substance that has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or damage to or destruction of tangible property (other than the Work itself), including loss of use therefrom, but only to the extent caused in whole or in part by failure to comply with Article 11 or by negligent acts or omissions of the

Subcontractor or anyone for whose acts it may be liable, regardless of whether the claim or damage is caused in part by a party indemnified hereunder.

11.5 Definitions of Hazardous Chemicals and Substances. As used herein, the term “Hazardous Chemical” shall mean any chemical defined as hazardous in the Hazardous Communication Standards, 29 C.F.R. § 1926.59 or 29 C.F.R. § 1910.1200, and “Hazardous Substance” shall mean any substance, including solid, liquid or gaseous material, which is listed or defined as a “hazardous substance” in the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9601 *et seq.*, or regulations relating thereto, but does not include petroleum, including crude oil or any fraction thereof, oil and oil waste as those terms are defined in the Clean Water Act, 33 U.S.C. 1251 *et seq.* or regulations relating thereto, and source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, 42 U.S.C. § 3011 *et seq.*, including regulations relating thereto, and includes any other substance defined by federal, state or local statute, regulation or ordinance as a hazardous, toxic or dangerous waste or substance where “state” means the State in which the Work is being performed and “local” means the local jurisdiction (i.e., county, parish, city, etc) in which the Work is being performed and “pollutant” shall mean any solid, liquid, gaseous or thermal irritant or contaminant, including, but not limited to smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste and shall include any Hazardous Substance.

Article 12. DEFAULT.

12.1 Commencing Work. If the Subcontractor fails to begin the Work on the beginning date established pursuant to Article 3, the Contractor shall notify the Subcontractor in writing by mail, facsimile or e-mail, that its failure to timely commence the Work is jeopardizing the Project schedule and that Subcontractor must begin the Work within two (2) business days from the date of written notification. If the Subcontractor fails to begin the Work with appropriate manpower, materials and equipment within three (3) business days of the date of notification, then Subcontractor will be in default of this Agreement and the Contractor may, at its sole discretion pursue any or all remedies described in this Article..

12.2 Timely Performing Work. After commencing the Work, Subcontractor shall perform in a timely manner and in accordance with the Contractor’s schedule as updated from time to time. If Subcontractor fails to perform in accordance with Contractor’s schedule, Contractor may notify the Subcontractor in writing (via mail, facsimile or e-mail) and the Subcontractor shall, within two (2) business days from the notification date, reestablish its Work in compliance with the schedule and provide a plan for compliance with the schedule going forward. If the Subcontractor fails to reestablish its Work in compliance with the schedule and/or fails to follow the plan provided for compliance with the schedule going forward, then Subcontractor will be in default of this Agreement and the Contractor may, at its sole discretion, pursue all remedies described in this Article.

12.3 Defective or Non-Conforming Work. The Subcontractor shall, within twenty-four (24) hours after receiving written notice from the Contractor to that effect, proceed to take down all portions of the Work and remove from the Project site or any offsite premises where Subcontractor is performing Work or storing Work components, all Work, materials, or components, which the Contractor, Owner, or any of their design consultants determine to be unsound, defective, improper, or in any way failing to conform to this Subcontract, or the Contract Documents, and the Subcontractor, at its own cost and expense, shall replace the same with proper and satisfactory Work, materials and components that conform to the Contract Documents and repair (or bear the cost of repairing if Contractor so chooses) all Work of Subcontractor or others that was damaged or destroyed by or as a result of Subcontractor’s unsound, defective, improper or nonconforming Work or materials or by the taking down, removal or replacement thereof. If the Subcontractor fails to perform the corrective work as described in this section within two (2) business days after receiving notice from Contractor, the Subcontractor will be in default of this Agreement and the Contractor may at its sole discretion pursue any or all remedies described in this Article.

12.4 Other Defaults. If Subcontractor fails to supply sufficient skilled workers, proper materials, fails to timely achieve Substantial or Final Completion, fails to make prompt payment to its workers and sub-subcontractors and suppliers, fails to observe laws, fails to indemnify Contractor as required under this Agreement, or is otherwise in breach of an obligation of this Subcontract, and if Subcontractor fails to cure any of these defaults within two (2) business days after the date of written notice to Subcontractor, then Subcontractor will be in default of this Agreement and the Contractor may at its sole discretion pursue all remedies described in this Article.

12.5 Remedies for Default. In the event Subcontractor is in default of the Agreement, Contractor shall have the right to send written declaration of default to Subcontractor and (without prejudice to any other rights and remedies it has), to begin pursuing any or all of the following remedies:

- .1 Withhold further payments from Subcontractor pending corrective action or completion of the Subcontractor's Work to the satisfaction of Contractor; and
- .2 Set-off Contractor's damages incurred due to Subcontractor's default against any monies due Subcontractor under this Subcontract or any other contract between Contractor and Subcontractor; and
- .3 Supply workers, materials and equipment and other facilities Contractor deems necessary for the completion or supplementation of Subcontractor's Work, and the sole cost of Subcontractor charge or off-set the cost to Subcontractor;
- .4 Contract with one or more additional subcontractors to perform part or all of Subcontractor's Work at the sole cost of Subcontractor;
- .5 Terminate or suspend the Subcontract as set forth in Article 13, and perform or contract with another subcontractor to perform the balance of the Subcontractor's Work at the sole cost of Subcontractor; and/or
- .6 Institute dispute resolution procedures as described in Article 14.
- .7 Subcontractor shall be liable for all costs incurred by Contractor to pursue any or all of the above remedies, including without limitation, the cost of labor, materials, subcontractors, supervision, overhead, profit, other damages, in addition to any attorneys' fees, expert fees, and dispute resolution costs incurred by Contractor as a result of the default.
- .8 In the event of an emergency or other exigent circumstances Contractor may proceed with any of the foregoing remedies without notice to Subcontractor.

Article 13. TERMINATION OR SUSPENSION BY CONTRACTOR OR OWNER.

13.1 Termination or Suspension by Contractor. If Subcontractor is in default as set forth in Article 12, then Contractor may terminate or suspend this Agreement by written notice to Subcontractor and its surety, if any, effective immediately, and use any materials, equipment and workers as Contractor deems appropriate. All of the costs incurred by Contractor from performing the Subcontractor's Work, including reasonable overhead, profit and attorneys' fees shall be deducted from any monies due or which may become due the Subcontractor for Work it correctly and timely performed. The Subcontractor shall be liable for any amount by which expenses incurred by Contractor to complete or correct Subcontractor's Work may exceed the unpaid balance of the Subcontract owed to Subcontractor for its correctly and timely performed Work. Contractor shall also be entitled to terminate or suspend this Subcontract in the event Contractor

suspends or terminates the Prime Contract, in which case Subcontractor shall only be entitled to payment for Work it correctly and timely performed prior to such termination or suspension, less prior payments made and shall not be entitled to recover any other costs, expense or damages of any type.

13.2 Termination or Suspension by Owner. If the Owner, for any reason, terminates or suspends the Prime Contract or any part that includes Subcontractor's Work, Contractor shall so notify Subcontractor in writing and upon receipt of the notice, this Agreement shall be terminated, suspended or assigned to the Owner, and Subcontractor shall immediately stop Work, pending further instructions. If Owner terminates Contractor for cause, Owner shall have the right to assignment of this Subcontract for completion of the Work. The assignment shall not operate as a release of any claims of Contractor against the Subcontractor. Further, in the event of Owner's suspension or termination of the Prime Contract, Contractor's obligation to the Subcontractor is limited to the extent of Contractor's recovery from Owner, on Subcontractor's behalf, pursuant to the Contract Documents. Contractor will cooperate with Subcontractor in the prosecution of any claim of Subcontractor against Owner relating to the suspension or termination; however, any and all costs of such prosecution, including attorneys' fees, shall be borne by the Subcontractor. This provision shall not be construed to create any obligation upon Contractor to pursue any claim or litigation on behalf of Subcontractor.

13.3 Force Majeure. If the Project is suspended or terminated or if Contractor is prevented from continuing the Prime Contract by conditions beyond Contractor's control, including Acts of God, labor disputes, fire, wind, pandemic, unusual delay in deliveries, extreme weather, war, terrorism, or governmental action, Contractor shall be permitted to terminate or suspend this Subcontract as Contractor deems appropriate and Subcontractor shall be entitled to payment only for Work it correctly and timely performed prior to such termination or suspension, less prior payments made and shall not be entitled to recover any other costs, expense or damages of any type.

13.4 Wrongful Default, Suspension or Termination. If Contractor wrongfully defaults, suspends or terminates this Subcontract, Contractor shall be liable to Subcontractor only for the contract balance for the Work correctly and timely performed by the Subcontractor prior to Contractor's default, suspension or termination, less prior payments made. In no event shall Subcontractor be entitled to recover any other incidental or consequential damages, which include but are not limited to profits attributable to unperformed Work, or punitive damages.

Article 14. DISPUTE RESOLUTION. All claims, disputes and matters in question arising out of, or relating to, this Agreement or the breach thereof, except for claims which have been waived by the issuance or acceptance of final payment and the claims excluded or limited by Sections 6.2 and 14.1, shall first be submitted to mediation conducted by a neutral mediator who is mutually acceptable to the parties. The parties each pledge to participate in good faith in mediation as a condition precedent to addressing the dispute in any other forum, unless the Contractor agrees in writing to waive this condition precedent. The site for mediation shall be in Lexington, Kentucky, unless required otherwise by Contractor's agreement with Owner, and Lexington, Kentucky shall also be the venue for any related litigation.

14.1 Time Within Which Claims May Be Brought. The parties agree that claims must be identified, and the party against whom the claim is made, must be notified in writing within five (5) business days of the event giving rise to the claim. However, in no event shall a claim be asserted by the Subcontractor against Contractor either (1) after the expiration of ten (10) calendar days following submission of Subcontractor's final application for payment or alternatively, (2) in no event later than thirty (30) calendar days after Substantial Completion of Subcontractor's Work on the Project, as determined by Contractor in its sole discretion. The parties agree that any claim asserted after the expiration of these deadlines shall be untimely, null, void and expressly waived.

14.2 Negotiation And Mediation. As an express condition precedent to commencing litigation against the other, the parties shall proceed as follows:

.1 The party asserting a claim shall do so in writing and within the notice period set forth above.

.2 The parties shall then attempt in good faith to negotiate a resolution of disputed claim(s) during the next twenty (20) calendar days before pursuing any other means of dispute resolution.

If claims remain unresolved after good faith negotiation, the parties shall endeavor to resolve disputes by proceeding, at the instance of either party, to non-binding mediation conducted under such rules as the parties may agree to employ or conducted by a mediator that the parties mutually select. If the parties cannot reach agreement respecting the rules under which mediation shall be conducted or agree to a mediator, the parties shall conduct mediation in accordance with the mediation rules of the American Arbitration Association. The parties shall divide the cost of the mediator evenly among them.

14.3 Resolution Of Disputes. If the dispute is not resolved by mediation, then such dispute shall be resolved in any of the following forums selected by Contractor in its sole discretion either (1) the forum to which disputes between the Owner and the Contractor are to be resolved under the terms of the Prime Contract, (2) binding Arbitration administered by the American Arbitration Association under its construction rules, or (3) litigation in the Lexington, Kentucky Fayette Circuit Court, or Federal Court in the Eastern District of Kentucky. Furthermore, the Subcontractor agrees that the Contractor shall have the exclusive right to join the Subcontractor as a party in any dispute resolution procedure (including without limitation ADR procedures, binding arbitration, or other judicial, or non-judicial proceeding) in which Contractor may be involved arising out of or in connection with the Project, together with such other subcontractors or parties as may be appropriate. Subcontractor waives its right to trial by jury in any dispute involving Contractor or Contractor's surety.

.1 Subcontractor agrees to submit to the jurisdiction and venue of the United States District Court for the Eastern District of Kentucky in Lexington, Kentucky and/or the Fayette Circuit Court.

.2 Subcontractor agrees that matters litigated in Court shall be determined by a judge and not by a jury.

14.4 Dispute Resolution Costs and Fees. In the event any dispute between the parties proceeds to arbitration or litigation, the prevailing party shall be entitled to recover from the non-prevailing party, all reasonable court costs, arbitration fees, arbitrator compensation, attorneys' fees, expert fees and other related expenses incurred by the prevailing party in connection with said dispute.

14.5 Claims Involving the Owner. Subcontractor agrees that if the dispute involves the Owner, the Subcontractor will be subject to the dispute resolution procedures set forth in the Prime Contract and submits to the jurisdiction and venue of the dispute resolution forum set forth therein.

Article 15. MISCELLANEOUS.

15.1 Governing Law. This Subcontract shall be governed by and interpreted in accordance with the laws of the Commonwealth of Kentucky. All indemnification obligations contained herein, including indemnification obligations set forth in the exhibits to this Agreement, which are incorporated by reference, shall survive the completion of Subcontractor's Work and shall survive the termination of this Subcontract.

15.2 Severability and Waiver. The partial or complete invalidity of one or more provisions of this Subcontract shall not affect the validity of any other provision. The failure of either party to insist, in one or more instances, upon the performance or enforcement of any terms of this Subcontract, or to exercise any right herein shall not be construed as a waiver or relinquishment of any such term or condition respecting future performance.

15.3 Entire Agreement. This Agreement represents the entire and integrated agreement between the parties and supersedes all prior or contemporaneous negotiations, representations, understandings or agreements, either written or oral. This Subcontract shall not be modified except by a written instrument signed by both parties.

15.4 Assignment And Subcontracting. The Subcontractor shall not assign this Agreement, nor its proceeds or receipts, nor subcontract the whole or any part of the Subcontractor's Work, without the prior written approval of Contractor.

15.5 Subcontract Documents. The following documents, designated by Exhibit letter below, are identified as Subcontract Documents and incorporated by reference herein:

- A. General Safety Work Requirements
- B. Congleton-Hacker Co. Policy on Sexual and Other Unlawful Harassment
- C. Minimum Insurance Requirements for Subcontractors
- D. Project Information Form
- E. Forms (Payment Application Form and Lien Waiver Forms to be used for this Project)
- F. Release, Waiver and Indemnity for Use of Contractor Owned or Rented Equipment
- G. Scope Document and Special Conditions
- H. Payment and Performance Bonds
- I. Contract Document List
- J. Owner-furnished Materials and/or Equipment

In witness whereof, the parties hereto have executed this agreement the date written below, and the persons executing this agreement represent and warrant that they are authorized to act upon behalf of the respective parties:

CONTRACTOR:

WITNESS:

CONGLETON-HACKER COMPANY

By: _____
Signature

Printed Name

Title

Dated: _____

SUBCONTRACTOR:

WITNESS:

({ToCompany.Name} ">")

By: _____
Signature

Printed Name

Title

Dated: _____

CONTRACT NO. {Contracts.ContractNumber}
{Projects.Name}

Exhibit "A"

GENERAL SAFETY WORK REQUIREMENTS

The Subcontractor is solely responsible for a Safety Program for their employees. As a part of their Safety Program, the subcontractor represents and warrants that they require, among other things, that all such employees comply with the following rules and regulations:

1. Nothing in the following rules will relieve the subcontractor of their obligation to maintain a safe Work environment in accordance with all Federal, State and Local Safety Laws.
2. Accidents or injuries, regardless of their nature, shall be reported to the appropriate parties in accordance with applicable governmental laws and insurance requirements and to the project superintendent at the time of the accident and in writing within 24 hours of same.
3. This is a 100% hard hat project. Hard hats will be worn at all times.
4. All other personal protective equipment (PPE) will be worn, at a minimum, in compliance with the Kentucky Occupational Safety and Health Regulations.
5. Shoes shall be first grade, hard soled and ankle high. Tennis shoes are not permitted.
6. Never operate machinery unless all guards and safety devices are in place and in proper operating condition.
7. Place ladders on a substantial base and do not use ladders with broken, split, or missing rungs and rails. All ladders are to extend at least three feet (3') above the landing platform and be securely fastened.
8. Gasoline must be stored and transported in authorized cans only. No smoking anywhere near flammable liquids.
9. Compressed gas cylinders must be secured in an upright position.
10. When burning or welding, a fire extinguisher must be close at hand at all times.
11. Electric tools shall either be double insulated or be properly grounded. Extension cords shall be the three-wire grounding type. Ground-fault interrupters shall be on all 120 volt power.
12. Temporary wiring will be in accordance with electric code and installed by competent personnel. All bulbs to be protected.
13. Fall protection shall be provided when working 6' or more above lower levels. This is in accordance with safety standards for fall protection, 29CFR, Part 1926, Subpart M.
14. Any overhead lifting by means of crane, lifts, hoists, etc. shall not be done when the designated OSHA high voltage clearance cannot be maintained.
15. Scaffolding shall be erected on sound footing. Loose brick, block, boards, etc. are prohibited. Scaffolding shall have handrails and toe boards.
16. Rolling scaffolds will be equipped with wheel locks which will be locked in use. Personnel will not ride scaffold when being moved.
17. Conduct a minimum of monthly "tool box talks" with all employees and report the contents of these talks to the project superintendent in an acceptable format.

Exhibit "A"

18. All trenching, excavating and shoring shall be performed in accordance with OSHA's Construction Standard for Excavations, 29 CFR, Part 1926, Subpart P.
19. Sources of ignition shall be prohibited from areas where flammable liquids are stored or issued. Appropriate warning signs shall be posted at these locations.
20. All earthmoving equipment shall have seat belts, backup alarms and rollover protective structures (ROPS).
21. Hazardous material information is on file at the Congleton-Hacker Company job site office. All subcontractors shall comply with communication of this information to their employees in respect to Congleton-Hacker Co. Hazard Communication Program and report any hazardous material brought on site to the project superintendent.
22. The use of, or being under the influence of, intoxicating beverages or illegal drugs while on the job is prohibited.
23. Horseplay causes accidents and will not be tolerated.
24. Be alert and keep out from under overhead loads.
25. Security of tools, equipment and materials will be the responsibility of each individual subcontractor.
26. Employees of subcontractors required to enter into confined or enclosed spaces shall be instructed as to the nature of the hazards involved, the necessary precautions to be taken, and the use of protective and emergency equipment required. A confined or enclosed space is a space which has limited means of egress and is subject to the accumulation of toxic or flammable contaminants or have an oxygen deficient atmosphere.
27. No person shall ride a hook, hoist or other material handling equipment. The riding of such equipment is prohibited.
28. All posted safety rules must be obeyed and must not be removed.
29. All subcontractors shall supply a competent person, as defined by OSHA, for their work and notify the project superintendent of such person.
30. All fork lift operators must be certified. Congleton-Hacker Company equipment (rented or owned) may only be operated by trained Congleton-Hacker Co. employees and use is strictly prohibited by others.
31. All subcontractors must see that all their employees receive a copy of the above safety Work rules and monitor them to assure that all rules are complied with daily.

ALCOHOL AND DRUG FREE PROJECTS: Subcontractor acknowledges and agrees that it is essential to the safety of persons at the site that this be a drug and alcohol free Project. Subcontractor shall ensure that its employees shall not distribute, be under the influence of, or be in possession of any form of alcohol or unlawful drug while at the Project site or while performing Project related duties. The Subcontractor shall indemnify and hold the Owner and Contractor harmless from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or related to Subcontractor's failure to comply with this provision.

Exhibit "B"

CONGLETON-HACKER COMPANY POLICY ON SEXUAL AND OTHER UNLAWFUL HARASSMENT

Congleton-Hacker Company is committed to providing a Work environment that is free of unlawful discrimination and harassment.

1. Actions, words, jokes, or comments based on an individual's sex, race, ethnicity, age, religion, or any other legally protected characteristic will not be tolerated.
2. Such harassment - whether overt or subtle - is a form of employee misconduct that is demeaning to another person, undermines the integrity of the employment relationship, and is strictly prohibited.
3. Sexual harassment, in particular, includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that is made a condition of employment, that unreasonably interferes with Work performance, or that creates an intimidating, hostile, or offensive Work environment.

Congleton-Hacker Company shall specifically ensure that all subcontractors are aware of and carry out its policy to maintain a Working environment free of harassment, intimidation and coercion, with specific attention to minority and female individuals.

We ask that you read this policy with care, abide by its provisions, and convey this information to all your employees working on Congleton-Hacker Company projects

Exhibit "C"

CONGLETON-HACKER COMPANY
872 FLOYD DRIVE
LEXINGTON, KY 40505
PHONE 859.254.6481/ FAX 859.253.0442

MINIMUM INSURANCE REQUIREMENTS FOR SUBCONTRACTORS

Subcontractor shall procure and keep in force and effect, insurance required by the Contract Documents, or as set forth below, whichever requires the more comprehensive and/or have higher coverage levels. Before commencing any Work, Subcontractor shall furnish Congleton-Hacker Co. ("Contractor") with Certificates of Insurance attested by a duly authorized representative of the insurance carrier(s) acceptable to Contractor, and the Certificate of Insurance shall include the following statement: "In the event of modification or change or before the expiration date thereof, the issuing company will mail 30 days written notice to the Certificate Holder and Additional Insureds. These are the minimum insurance requirements only and do not limit Subcontractor's liability, in any way, for incurred losses. Subcontractor's insurance policies shall not contain any limitation or exclusionary endorsements for operations.

A. GENERAL LIABILITY INSURANCE : Commercial General Liability Insurance, including Blanket Contractual Liability, Completed Operations, Explosion Collapse and Underground Hazard, Products Liability, Broad Form Property Damage, Premises- Operations, Independent Contractors and Personal Injury, with limits of not less than \$1,000,000 per occurrence/\$2,000,000 aggregate for all liability arising out of injury to or death of one or more person, in any one occurrence, and for all liability arising out of damage to or destruction of property, including loss of use thereof and downtime, in any one occurrence. There shall be no endorsements or modification of the commercial general liability limiting the scope of coverage for liability arising from explosion, collapse, underground property damage, subsidence or damage to the Work done on Subcontractor's behalf by a sub-subcontractor. In addition, no endorsement or exclusion will be added as respects contractual liability through the use of CG 2426 (07/04) or equivalent.

Subcontractor's coverage will be primary and non-contributory to any coverage maintained by Congleton-Hacker Co. and/or the Owner.

The Products Liability and Completed Operations Coverage required at \$1,000,000/ \$2,000,000 limit hereunder shall be effective during the term of the subcontract and for a period of at least two years following Work completion or equivalent to the state statute of repose, if any, whichever is longer.

Subcontractor's policy shall add Contractor and Owner, as an insured thereunder by Insurance Services Organization (ISO) additional insured endorsements CG 2010 (07/04) and CG 2037 (07/04) or equivalent.

B. AUTOMOBILE LIABILITY INSURANCE:

Automobile Liability Insurance on all motor vehicles owned, hired, or non-owned, with limits of not less than \$1,000,000 combined single limit. This policy shall add Contractor and Owner, as an insured thereunder by ISO additional insured endorsement CA 2048 (02/99) or its equivalent.

If hazardous materials are to be hauled, pollution liability coverage equivalent to that provided under the ISO pollution liability-broadened coverage for covered automobiles endorsement (CA 99 410) shall be provided, and the Motor Carrier Act Endorsement (MCS-90) shall be attached.

C. EXCESS UMBRELLA LIABILITY - Subcontractor shall obtain and provide Excess or Umbrella Liability Insurance in an amount not less than \$1,000,000 laying over the underlying Commercial General Liability, Auto Liability and Employers' Liability coverage with the same coverage requirements as the underlying policies. Excess/Umbrella policy(s) must include as additional insured all entities that are required as additional insureds on the underlying policies herein required, and shall provide equivalent coverage to the underlying additional insured endorsements

D. STATUTORY WORKER'S COMPENSATION: Subcontractor shall procure Workers Compensation and Employer's Liability coverage of not less than \$1,000,000 each accident/\$1,000,000 disease each employee/\$1,000,000 disease policy limit and Broad Form All States Coverage, and Voluntary Compensation endorsement. Subcontractor shall also include coverage under the United States Longshoremen's and Harbor Worker's Compensation Act, if exposure exists, or if required by the Contract Documents.

Exhibit "C"

Where a Professional Employer Organization (PEO) or "leased employees" are utilized, Subcontractor shall require its leasing company to provide Workers Compensation meeting the requirements of this workers compensation section for said workers and such policy shall be endorsed to provide an Alternate Employer Endorsement in favor of Subcontractor via WC 00 03 01A or its equivalent. If Subcontractor maintains any Workers Compensation policy(s) in addition to the coverage provided by the PEO, said policy(s) or its equivalent shall contain an Employee Leasing Client Exclusion Endorsement via WC 00 03 22 or its equivalent.

E. CERTIFICATE OF INSURANCE. Prior to commencement of the Work, and thereafter, upon renewal or replacement of each certificate of coverage, Subcontractor shall furnish Contractor with a certificate of insurance and policy endorsements (or certified copies of its insurance policies), which Subcontractor warrants and represents is a true and accurate representation of Subcontractor's existing insurance coverage. This certificate shall indicate and include copies of all endorsements, including Contractor and Owner as additional insured. The coverage provided to the additional insured parties shall be as broad as the coverage provided to the named insured under said policy and the limits of insurance shall be the limit specified in this Subcontract or the Subcontractor's policy, whichever is greatest.

F. BUILDER'S RISK OR ALL RISK POLICY: Contractor and Subcontractor waive all rights against each other and the Owner, separate contractors of Owner, and all other subcontractors for loss or damage to the extent covered by Builder's Risk or other similar insurance covering improvements or materials at the Project site, except such rights as they may have to the proceeds of such insurance. The Subcontractor shall procure and maintain, at the Subcontractor's own expense, an Installation Floater to protect Subcontractor's interest. Subcontractor shall be responsible for payment of any its costs and expenses not covered by Builder's Risk, including the Builder's Risk deductible.

G. ENDORSEMENT. If the policies of insurance referred to in this Exhibit require an endorsement to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed.

H. PUNITIVE DAMAGES. Subcontractor's general liability, auto liability and umbrella/excess policies shall include punitive damage coverage (unless prohibited by applicable law).

I. ADDITIONAL INSURED LIMITATIONS. As respects any additional insured requirements contained herein, the coverage provided to the additional insured parties shall be as broad as the coverage provided to the named insured under said policy and the limits of insurance shall be limit specified in this contract or the Subcontractor's policy, whichever is greatest.

J NO REPRESENTATION OF COVERAGE ADEQUACY. By requiring insurance herein, Contractor does not represent that coverage and limits will necessarily be adequate to protect Subcontractor and such coverage and limits shall not be deemed as a limitation on Subcontractor's liability under the indemnities granted to Contractor in this Agreement.

K. CROSS-LIABILITY COVERAGE. Subcontractor's liability policies shall contain the standard Insurance Services Organization (ISO) Separation of Insured's clause or a substantially similar clause. There shall be no endorsements or modifications limiting the scope of coverage related to the Separation of Insured's clause.

L. SELF-INSURED RETENTIONS. Subcontractor warrants it is financially capable and responsible for payment of all retentions on its policies regardless of fault.

M. SUB-SUBCONTRACTOR'S INSURANCE. Subcontractor shall cause each sub-subcontractor employed by Subcontractor to purchase and maintain insurance of the type specified in the requirements of this section, and will only vary from these requirements with the express written approval of Contractor. When requested by Contractor, Subcontractor shall furnish to Contractor copies of certificates of insurance evidencing coverage for each sub-subcontractor.

Exhibit "D"

CONGLETON-HACKER COMPANY
PROJECT INFORMATION FORM

Affidavits, Releases of Lien and Waivers, both Partial and Final, will be required from all Material Suppliers and Subcontractors furnishing materials or labor on this project.

C-H PROJECT #{Projects.Number}

SUBCONTRACTOR: {ToCompany.Name}

PROJECT: {Projects.Name}

I. LIST YOUR MATERIAL & EQUIPMENT SUPPLY SOURCES FOR THIS PROJECT

*If additional space is needed, attach list

	STREET ADDRESS	CITY	STATE	ZIP	PHONE NO.	DESCRIPTION OF MATERIALS TO BE SUPPLIED

II. SUBCONTRACTORS YOU INTEND TO USE ON THIS PROJECT

FIRM NAME	STREET ADDRESS	CITY	STATE	ZIP	PHONE NO.	DESCRIPTION OF SUBCONTRACTED WORK

I certify that the foregoing is a complete list of all material suppliers and subcontractors from whom purchases in excess of \$1,000.00 will be made for this particular Congleton-Hacker Co. project. In addition, I agree that you may contact any of the above listed parties for the purpose of obtaining information relating to this project.

 Signature Printed Name Title Date

Congleton-Hacker Co. Use Only	
_____ Date	_____ PM Initial

**CONGLETON-HACKER COMPANY
872 FLOYD DRIVE
LEXINGTON, KY 40522**

SUMMARY OF APPLICATION FOR PAYMENT

DATE: _____ PROJECT: {Projects.Name}
FROM: {ToCompany.Name} PROJECT NO. {Contracts.ContractNumber}
_____ DATE OF CONTRACT: {Contracts.ContractDate}
_____ APPLICATION NO. _____
PHONE: _____ PERIOD FROM _____ TO _____

STATEMENT OF CONTRACT

Original Contract Amount \$ {Contracts.OrigValue}
Approved Change Order #1 thru _____ * \$ _____
Revised Contract Amount to Date \$ _____

* Unapproved Changes are not to be billed unless and until a Change Order is fully executed by Congleton-Hacker.

PROJECT TO DATE APPLICATION CALCULATIONS

Value of Work Completed (per attached breakdown as prescribed by Project Manager) \$ _____
Materials Stored (per attached breakdown as prescribed by Project Manager) \$ _____
Total Completed Work & Material Stored on Job Site \$ _____
Less _____% Retainage \$ _____
Total to Date Less Retainage \$ _____
Less Previous Applications \$ _____
Amount of This Application for Payment \$ _____

IMPORTANT: The Payment Estimate Supplemental Information Data must be completed and submitted along with this form. The Progress Payment Waiver and Release of Lien form must be furnished for previous invoice payments to subcontractors and suppliers. Your Progress Payment Waiver of Lien must also be furnished for previous invoice payments.

Exhibit "E"

CONGLETON-HACKER COMPANY

PAYMENT ESTIMATE SUPPLEMENTAL INFORMATION

TO: CONGLETON-HACKER COMPANY RE: SUBCONTRACT NO. {Contracts.ContractNumber}

PROJECT: {Projects.Name}

PAYMENT ESTIMATE NO. _____ ESTIMATE DATE: _____

Listed below are all subcontractors and suppliers of materials for this project during the period covered by this Payment Estimate whose total amount due for the period exceeds \$1,000.00 OR who have had lesser amounts due over multiple periods which in aggregate exceeds \$1,000.00 and for which releases have not been furnished.

If additional space is needed attach list to this sheet. Send completed releases and waivers from all of the following along with your own with your next Payment Estimate.

NAME	ADDRESS	DESCRIPTION OF WORK OR MATERIALS

The undersigned certifies that the foregoing list, and any attached sheets, includes all subcontractors and material suppliers as described above having amounts due in excess of \$1,000.00 in aggregate for the period covered by this or previous Payment Estimates for which releases and waivers of lien have not been furnished.

COMPANY NAME: {ToCompany.Name}

AUTHORIZED SIGNATURE: _____

TITLE: _____ DATE SIGNED: _____

Congleton-Hacker Co. Use Only
Project Manager Approval: _____

For Use By Subcontractor's Material Suppliers and Subcontractor's Subcontractors

PROGRESS PAYMENT {CONTRACTS.CONTRACTNUMBER}
SUBCONTRACTOR, SUPPLIER OR VENDOR AFFIDAVIT AND WAIVER OF LIEN
ACKNOWLEDGEMENT OF PAYMENT

Project Name: {Projects.Name} ("the Project")

Subcontractor, Supplier or Vendor Name: {ToCompany.Name} ("Subcontractor")

Owner Name: {LegalDocInfo.Owner} ("Owner")

Subcontractor has provided labor and/or materials, equipment, or machinery for the Project during the billing period of _____ through _____ (the Billing Period), and

Subcontractor has paid in full all bills, invoices or other obligations for labor, materials, payroll taxes, material, equipment, machinery, fuel or any other debts owed relating to this Project which are due or payable on or before the last day of the Billing Period.

Subcontractor certifies and warrants that it has complied with all federal, state and local tax and employment laws, including but not limited to Social Security, Unemployment, Immigration, and Workers Compensation laws relating to the Subcontract and Subcontractor's work through the Billing Period.

Subcontractor waives and releases all rights to lien or claim against the Owner of the Project, the Owner's Property, Congleton-Hacker Company and any surety for the performance of this Subcontract from inception of the Project through the Billing Period, except for (i) unpaid retention and (ii) work that has been performed which is not the subject of an approved change order and which is described and quantified in the attached document. The Subcontractor acknowledges and agrees that all claims that arose during this Billing Period, if any, are hereby expressly waived and released. The Subcontractor further states that no other person has any right to a lien or claim against the Owner or Owner's property due to work performed or material, equipment, machinery or other supplies furnished to the Subcontractor through the Billing Period.

Subcontractor understands and agrees that Congleton-Hacker Company and others are relying on this waiver and release to induce Congleton-Hacker Company to make payments to the Subcontractor. This waiver and release shall become effective immediately upon receipt of the amount applied for in Payment Application Number ___ for this Billing Period.

Subcontractor swears, affirms and certifies that its Application for Payment Number ___ for the Billing Period is accurate and correct and properly describes the work performed, materials, equipment and machinery provided to the Project for the Billing Period specified. Subcontractor shall indemnify, defend and hold harmless Congleton-Hacker and the Owner, including any attorneys' fees or costs incurred by them, from and against any claim or lien by any vendor, sub-subcontractor or other person or entity with respect to any material or labor placed upon, furnished or installed on or in the Project and/or on Owner's property by the Subcontractor or Subcontractor's vendors, sub-subcontractors or others for whom Subcontractor is directly or indirectly responsible.

{ToCompany.Name}
Subcontractor

Signature and Title

Printed name

COMMONWEALTH OF KENTUCKY)
COUNTY OF _____)

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

My commission expires: _____

NOTARY PUBLIC

[SEAL]

SUBCONTRACTOR AFFIDAVIT AND WAIVER OF LIEN –

ACKNOWLEDGMENT OF FULL AND FINAL PAYMENT {CONTRACTS.CONTRACTNUMBER}

_____, on behalf of {ToCompany.Name} (hereinafter "the Subcontractor"), being duly authorized by the company, and after first being duly sworn, states as follows:

Subcontractor, having entered into a Subcontract with Congleton-Hacker Co. ("Contractor") on the project owned by {LegalDocInfo.Owner} ("Owner") and known as {Projects.Name}, located in{Projects.Address} (hereinafter "the Project"), has performed work and/or furnished materials, equipment, and/or machinery or has fabricated materials especially for the Project. Subcontractor certifies that it has paid in full all bills or obligations for labor, sub-subcontract Work, payroll taxes, material, (whether or not specifically fabricated for this Project), equipment, and/or machinery, and Subcontractor represents to Contractor that there are no bills or obligations unpaid on the Project.

The Subcontractor further certifies that it has complied with all federal, state and local tax and employment laws, including, but not limited to, Social Security, Unemployment and worker's compensation laws, applicable to its Work for the Project.

The Subcontractor hereby fully and finally waives and releases all rights to liens and claims against the Owner, the Contractor, the Project property, the Project or any funds relating thereto for the performance of its Contract from the inception of the Project. The Subcontractor further states that no other person has any right to a lien or claim against the Owner, the Contractor, the Project property or the Project funds on account of work performed or for material, equipment, and/or machinery, or for material especially fabricated for the Project, furnished by or through the Subcontractor.

Subcontractor understands and agrees that this waiver and release is given with the understanding that the Contractor and others will rely upon it, and it is provided to induce Contractor to make the final payment to the Subcontractor. The waiver and release is effective as of the date it is signed.

In consideration for full and final payment, Subcontractor shall indemnify, defend and hold the Contractor and the Owner harmless from any claims or liens asserted against the Contractor, the Owner, Owner's property, the Project or any funds relating thereto by Contractor's subcontractors, suppliers, governmental agencies or other third parties which arise from Work performed and/or materials provided, including all costs, attorneys' fees and other expenses incurred by the Contractor or Owner as a result of such liens or claims.

Subcontractor attaches hereto final waivers and releases for liens from all sub-subcontractors, vendors and/or material suppliers.

SUBCONTRACTOR

Signature/Title

Printed Name

State of: _____

County of: _____

Subscribed and sworn before me this _____ day of _____, 2012 by _____, the _____ of _____, a _____ corporation (or partnership or sole proprietorship), on behalf of the Subcontractor.

Notary Public

My commission expires: _____

RELEASE, WAIVER AND INDEMNIFICATION

FOR USE OF CONGLETON-HACKER CO. OWNED OR RENTED EQUIPMENT

This ___ day of _____, 20 ___, {ToCompany.Name} ("Subcontractor"), agrees as follows:

WHEREAS, Subcontractor is performing work on the {Projects.Name} project ("Project") under subcontract with Congleton-Hacker Company ("Contractor"); and

WHEREAS, Subcontractor desires to use equipment owned by Contractor in the performance of its work on the Project;

NOW THEREFORE, in consideration of Contractor's permission to use Contractor's equipment on the Project, Subcontractor agrees as follows:

1. Subcontractor agrees that it is using the equipment at its own risk, and uses the equipment as is, without any representations or warranties from Contractor.
2. Subcontractor shall indemnify, defend and hold Contractor harmless from any loss, claim, damage, or other costs, fees and/or expense (including personal injury, property damage or death), which may arise from Subcontractor's use of Contractor's equipment, including the use of Contractor's equipment by Subcontractor's employees, agents, sub-subcontractors or suppliers or any other party for whom Subcontractor, except where such loss or damage is determined to have been solely and exclusively the fault of Contractor.
3. Subcontractor releases Contractor from all liability relating to Subcontractor's use of Contractor's equipment.
4. Subcontractor shall provide only qualified, skilled and trained operators of Contractor's equipment.
5. Subcontractor shall provide all maintenance, fuel and other items necessary for operation of Contractor's equipment during Subcontractor's use of the equipment.
6. Subcontractor shall return the equipment in the same or better condition than the condition of the equipment upon receipt, and Subcontractor shall repair any and all damage to the equipment.
7. Subcontractor shall not permit other subcontractors or other persons to use Contractor's equipment.

SUBCONTRACTOR: {ToCompany.Name}

CONTRACTOR: Congleton-Hacker Co.

BY: _____

BY: _____

ITS: _____

ITS: _____

SCOPE DOCUMENT AND SPECIAL CONDITIONS

Exhibit "H"



THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
AGC DOCUMENT NO. 606
SUBCONTRACT PERFORMANCE BOND



This document is endorsed by the American Subcontractors Association, Inc.

The Contractor, _____ (the "Contractor") has entered into a Contract with the Owner _____ (the "Owner") dated _____ for _____

_____ (the "Project"); and The Contractor and the Subcontractor _____, (the "Subcontractor") have entered into a Subcontract Agreement (the "Subcontract") dated _____ for certain portions of the work in connection with the Project consisting generally of: _____ (the "Subcontract Work").

The Subcontract is incorporated by reference into this Bond.

By virtue of this Performance Bond (the "Bond"), the Subcontractor as Principal and _____ as Surety ("Surety"), are bound to the Contractor as Obligee in the maximum amount of _____ Dollars (\$ _____) (the "Bond Sum"). The Subcontractor and Surety hereby bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein.

1. **GENERAL CONDITIONS.** It is the condition of this Bond that if the Subcontractor provides all labor, materials, equipment and services necessary or incidental to complete the Subcontract Work in accordance with that which is indicated in the Subcontract, the Surety's obligations under this Bond are null and void. Otherwise the Surety's obligations shall remain in full force and effect. The Surety waives any requirement to be notified of any alteration or extension of time made by the Contractor in the Subcontract. The Contractor may not invoke the provisions of this Bond unless the Contractor has performed its obligations pursuant to the Subcontract. Upon making demand on this Bond, the Contractor shall make the Subcontract Balance (the total amount payable by the Contractor to the Subcontractor pursuant to the Subcontract less amounts properly paid by the Contractor to the Subcontractor) available to the Surety for completion of the Work.

2. **SURETY OBLIGATIONS.** If the Subcontractor is in default pursuant to the Subcontract and the Contractor has declared the Subcontractor in default in writing, the Surety promptly may remedy the default or shall:

- a. Complete the Subcontract Work, with the consent of the Contractor, through the Subcontractor or otherwise;
- b. Arrange for the completion of the Subcontract Work by a subcontractor acceptable to the Contractor and secured by performance and payment bonds equivalent to those for the Subcontract issued by a qualified surety. The Surety shall make available as the Subcontract Work progresses sufficient funds to pay the cost of completion of the Subcontract Work less the Subcontract Balance up to the Bond Sum; or
- c. Waive its right to complete the Subcontract Work and reimburse the Contractor the amount of its reasonable costs, not to exceed the Bond Sum, to complete the Subcontract Work less the Subcontract Balance.

3. **DISPUTE RESOLUTION.** Any dispute pursuant to this Bond shall be instituted in any court of competent jurisdiction in the location in which the Project is located and shall be commenced within two years after default of the Subcontractor or Substantial Completion of the Subcontract Work, whichever occurs first. If this provision is prohibited by law, the minimum period of limitation available to sureties in the jurisdiction shall be applicable.

This Bond is entered into as of _____

SURETY _____ (seal) SUBCONTRACTOR _____ (seal)

By: _____ By: _____

Print Name: _____ Print Name: _____

Print Title: _____ Print Title: _____

(Attach Power of Attorney)

Witness: _____ Witness: _____

(Additional signatures, if any, appear on attached page.)

(Additional signatures, if any, appear on attached page.)

Exhibit "H"



THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
AGC DOCUMENT NO. 607
SUBCONTRACT PAYMENT BOND



This document is endorsed by the American Subcontractors Association, Inc.

The Contractor, _____ (the "Contractor") has entered into a Contract with the Owner _____ (the "Owner") dated _____ for _____

_____ (the "Project"); and The Contractor and the Subcontractor _____, (the "Subcontractor") have entered into a Subcontract Agreement (the "Subcontract") dated _____ for certain portions of the work in connection with the Project consisting generally of: _____

The Subcontract is incorporated by reference into this Bond.

By virtue of this Performance Bond (the "Bond"), the Subcontractor as Principal and _____ as Surety ("Surety"), are bound to the Contractor as Obligee in the maximum amount of _____ Dollars (\$ _____) (the "Bond Sum"). The Subcontractor and Surety hereby bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein.

1. **GENERAL CONDITIONS.** It is the condition of this Bond that if the Subcontractor promptly makes payment for all labor, materials, and equipment furnished for use in the performance of the work required by the Subcontract, the Surety's obligations pursuant to this Bond are null and void. Otherwise the Surety's obligations shall remain in full force and effect. The Surety waives any requirement to be notified of any alteration or extension of time made by the Contractor in the Subcontract.

2. **SURETY OBLIGATIONS.** Every Claimant who has not been paid in full before the expiration of a period of ninety (90) days after such Claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, may have a right of action on this Bond. The Surety's obligation to the Claimant(s) shall not exceed the Bond Sum.

3. **LIMITATION OF ACTION.** No suit or action shall be commenced on this Bond by any Claimant:

a. Unless Claimant, other than one having a direct contract with the Subcontractor, shall have given written notice to the Subcontractor, the Contractor and the Surety within ninety (90) days after the Claimant did or performed the last of the work or labor, or furnished the last of the materials for which the claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by any means which provides written third party verification to the Subcontractor, the Contractor and Surety at any place within the United States where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the Project is located.

b. After the expiration of one (1) year from the date on which the Claimant last performed labor or furnished materials or equipment on the Project. If this provision is prohibited by law, the minimum period of limitation available to sureties in the jurisdiction shall be applicable.

c. Other than in any court of competent jurisdiction in the location in which the Project is located.

4. **CLAIMANT.** A Claimant is defined as an individual or entity having a direct contract with the Subcontractor or having a contract with a subsubcontractor having a direct contract with the Subcontractor to furnish labor, materials or equipment for use in the performance of the Subcontract.

This Bond is entered into as of _____

SURETY _____ (seal) SUBCONTRACTOR _____ (seal)
By: _____ By: _____
Print Name: _____ Print Name: _____
Print Title: _____ Print Title: _____
(Attach Power of Attorney)

Witness: _____ Witness: _____
(Additional signatures, if any, appear on attached page.) (Additional signatures, if any, appear on attached page.)

Exhibit "H"

GENERAL INSTRUCTIONS

Standard Form

These instructions are for the information and convenience of the users of AGC 607, 2004 Edition. They are not part of the Agreement nor a commentary on or interpretation of the contract form. It is the intent of the parties to a particular agreement that controls its meaning and not that of the writers and publishers of the standard form. As a standard form, this Agreement has been designed to establish the relationship of the parties in the standard situation. Recognizing that every situation is unique, modifications may be required. See the following recommendations for modifications.

Legal and Surety Counsel

THIS DOCUMENT HAS IMPORTANT LEGAL AND SURETY CONSEQUENCES, AND IT IS NOT INTENDED AS A SUBSTITUTE FOR COMPETENT PROFESSIONAL SERVICES AND ADVICE. CONSULTATION WITH AN ATTORNEY AND A SURETY ADVISOR IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION. FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS MAY VARY WITH RESPECT TO THE APPLICABILITY AND/OR ENFORCEABILITY OF SPECIFIC PROVISIONS IN THIS DOCUMENT. AGC SPECIFICALLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PURCHASERS ASSUME ALL LIABILITY WITH RESPECT TO THE USE OR MODIFICATION OF THIS DOCUMENT, AND AGC SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT OR CONSEQUENTIAL DAMAGES RESULTING FROM SUCH USE OR MODIFICATION.

COMPLETING THE AGREEMENT

Completing Blanks

Diamonds (◆) in the margins indicate provisions requiring the parties to fill in blanks with information.

Modifications

Supplemental conditions, provisions added to the printed agreement, may be adopted by reference. It is always best for supplements to be attached to the agreement. Provisions in the printed document that are not to be included in the agreement may be deleted by striking through the word, sentence or paragraph to be omitted. It is recommended that unwanted provisions not be blocked out so that the deleted materials are illegible. The parties should be clearly aware of the material deleted from the standard form. It is a good practice for both parties to sign and date all modifications and supplements.

Photocopying the Completed Document

The purchaser of this copyrighted document may make up to nine (9) photocopies of a completed document, whether signed or unsigned, for distribution to appropriate parties in connection with a specific project. Any other reproduction of this document in any form is strictly prohibited, unless the purchaser has obtained the prior written permission of the Associated General Contractors of America.

OBTAINING ADDITIONAL INFORMATION

To obtain additional information about AGC documents, contact AGC at 333 John Carlyle Street, Suite 200, Alexandria, VA 22314; phone 1-(800) 242-1767 or (703) 548-3118; fax (703) 548-3119, or visit AGC's web site at www.agc.org.

SPECIAL INSTRUCTIONS

This document may be completed in the following manner:

- Fill in the legal names of the Contractor (Obligee) and Owner.
- Fill in the date of the Contract between the Owner and Contractor and the name of the Project.
- Fill in the legal name of the Subcontractor (Principal). Fill in the date of the Subcontract and the description of the work.
- Fill in the company name of the Surety as the "SURETY." Note that the name of the Surety is not the name of the surety agent.
- Provide the amount (the "Bond Sum"), stated in both Arabic numerals and words, for which the Subcontractor and the Surety will be obligated.
- Provide the date of the bond in the space provided after Article 4 and before the signatures.
- Fill in the company name of the Surety after "SURETY." Note that the name of the Surety is not the name of the surety agent. The corporate seal should be affixed. The signature of the person representing the firm should be placed on the line entitled "By." Below the signature line, the person's name who placed their signature on the signature line should be typed or printed in along with their business title. It is most important that the Surety's Power of Attorney be attached. The signature of the witness should be placed on the line entitled "Witness."
- Fill in the company name of the Subcontractor after "SUBCONTRACTOR." The corporate seal should be affixed. The signature of the person representing the firm should be placed on the line entitled "By." Below the signature line, the person's name who placed their signature on the signature line should be typed or printed in along with their business title. The signature of the witness to the signature for the "SUBCONTRACTOR" should be placed on the line entitled "Witness."
- Additional witness signatures, if any, should be included on an attached sheet and this fact should be noted in the space below or to the side of the line. (Additional signatures, if any, appear on attached page.)

Exhibit "I"

CONTRACT DOCUMENT LIST

EXHIBIT "J"

OWNER-FURNISHED MATERIALS AND/OR EQUIPMENT

**UNIVERSITY OF KENTUCKY
CAPITAL CONSTRUCTION PROCUREMENT SECTION**

PAYMENT BOND

Bond Number: [NUMBER]

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the University of Kentucky (the “Owner”) and [CONTRACTOR’S NAME] (the “Principal”) have entered into a contract for the construction of Project # [NUMBER/ NAME] with the contract price or amount of \$[AMOUNT] (the “Project”);

WHEREAS, the Principal is required to furnish a payment bond for the protection of all persons performing, supplying, or furnishing labor, materials, equipment, or supplies to the contractor or its subcontractors for the performance of the work provided for in the contract, including security for payment of all unemployment contributions which become due and payable under Kentucky unemployment insurance law, in an amount equal to one hundred percent (100%) of the original contract price or amount, executed by a surety company authorized to do business in the Commonwealth of Kentucky, and satisfactory to the Commonwealth; and

WHEREAS, [SURETY’S NAME] (the “Surety”), a surety company authorized to do business in the Commonwealth of Kentucky, has agreed to issue such bond.

NOW, THEREFORE, for the value received and intending to be legally bound hereby, the Principal and Surety agree to the following terms and conditions of this obligation:

1. **Recitations:** The recitals above are true and substantive parts of this instrument.
2. **Definitions:** The following terms are defined for the purposes of this instrument:
 - (a) **Bond** means this instrument and the terms and conditions of the Contract (as defined herein), both express and implied, which are incorporated herein by reference and constitute a part of this instrument to the same extent and effect as though copied verbatim herein, and are legally binding on the Principal and Surety including the obligations of the Surety provided therein.
 - (b) **Claimants** means all persons having just and lawful claims for (i) labor, materials, services, insurance, supplies, machinery, equipment, rentals, fuels, oils, implements, tools, appliances, and any other items of whatever nature, furnished for, used or consumed in the prosecution of the work called for by the Contract, whether lienable or non-lienable and whether or not permanently incorporated in said work; (ii) pension, welfare, vacation, and other supplemental employee benefit contributions payable under collective bargaining agreements with respect to persons employed upon said work; and (iii) federal, state, and local taxes and contributions required by law to be withheld and paid with respect to the employment of persons upon said work.

- (c) **Contract** means that certain agreement dated [DATE] for the construction of Project # [NUMBER/PROJECT NAME], all documents that comprise the agreement, any documents incorporated therein by reference, and any Contract Changes (as defined herein).
- (d) **Contract Change** means any change order, change of time, extension of time, amendment, modification, addition, or other alteration, material or otherwise, to the Contract, the contract price or amount, the work to be performed under the Contract, or the specifications accompanying same.
3. **Guaranty:** The Principal and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner, as obligee of the Bond, to pay all Claimants having just and lawful claims (as defined above). The Principal and Surety likewise guarantee the faithful payment of the prevailing hourly wage as set forth in the schedule incorporated into the bid documents unless the Project is exempt from the prevailing wage requirements of KRS 337.505 through 337.550.
4. **Bond Amount:** The bond amount is \$[AMOUNT], which shall be increased automatically by Contract Changes to the contract price or amount and shall not limit the Surety's obligation or liability under the Bond for paying attorney fees, costs, or other legal expenses incurred by the Owner, which may be in excess of the bond amount as increased.
5. **Defeasance:** Except as provided by the Contract, the Principal and Surety shall have no obligations under the Bond if the Principal during the original term of the Contract, any extensions thereof which may be granted by the Owner with or without notice to the Surety, the guaranty period, the warranty period, and other periods limited only by statutes of limitation (a) promptly pays all Claimants; (b) satisfies all claims and demands incurred under the Contract; and (c) fully indemnifies and saves harmless the Owner from all costs, damages, attorney fees, consultant fees, and other expenses that it may suffer by reason of the Principal's failure to do so. The Bond will otherwise remain in full force and effect.
6. **Amendment:** The Bond, including without limitation the Bond Amount, will be deemed amended, automatically and immediately without separate or written amendments hereto, upon any Contract Changes. The Principal and Surety agree to be bound by any Contract Changes. The Surety waives notice of any Contract Changes.
7. **Interpretation:** The Bond will be interpreted and enforced in accordance with Kentucky law. The Principal and Surety agree that they have taken part in drafting the Bond, which will not be construed against or in favor of any other party on the basis of drafting. To the extent that this instrument contradicts the Contract, the Contract will control.
8. **Beneficiaries:** The Principal and Surety agree that (a) the Bond will insure to the benefit of the Owner and all Claimants having just and lawful claims (as defined above) (collectively the "Beneficiaries"), whether or not they have any direct contractual relationship with the Principal; (b) the Beneficiaries may maintain independent actions upon this Bond in their own names; and (c) no final settlement between the Owner and Principal will abridge the right of other Beneficiaries with unsatisfied claims.

IN WITNESS WHEREOF, the Principal and Surety, by their duly authorized representatives, have executed this instrument, which is effective as of [DATE].

ATTEST:
WITNESSES:

PRINCIPAL

Witness as to PRINCIPAL

By

Witness as to PRINCIPAL

Title

ATTEST:
WITNESSES:

SURETY

Witness as to SURETY

By

Witness as to SURETY

Attorney-in-Fact

**UNIVERSITY OF KENTUCKY
CAPITAL CONSTRUCTION PROCUREMENT SECTION**

PERFORMANCE BOND

Bond Number: [NUMBER]

KNOW ALL PERSONS BY THESE PRESENTS:

WHEREAS, the University of Kentucky (the “Owner”) and [CONTRACTOR’S NAME] (the “Principal”) have entered into a contract for the construction of Project # [NUMBER/ NAME] with the contract price or amount of \$[AMOUNT] (the “Project”);

WHEREAS, the Principal is required to furnish a performance bond for the faithful performance of the contract in an amount equal to one hundred percent (100%) of the contract price or amount as it may be increased, executed by a surety company authorized to do business in the Commonwealth of Kentucky, and satisfactory to the Commonwealth; and

WHEREAS, [SURETY’S NAME] (the “Surety”), a surety company authorized to do business in the Commonwealth of Kentucky, has agreed to issue such bond.

NOW, THEREFORE, for the value received and intending to be legally bound hereby, the Principal and Surety agree to the following terms and conditions of this obligation:

1. **Recitations:** The recitals above are true and substantive parts of this instrument.
2. **Definitions:** The following terms are defined for the purposes of this instrument:
 - (a) **Bond** means this instrument and the terms and conditions of the Contract (as defined herein), both express and implied, which are incorporated herein by reference and constitute a part of this instrument to the same extent and effect as though copied verbatim herein, and are legally binding on the Principal and Surety including the obligations of the Surety provided therein.
 - (b) **Contract** means that certain agreement dated [DATE] for the construction of Project # [NUMBER/PROJECT NAME], all documents that comprise the agreement, any documents incorporated therein by reference, and any Contract Changes (as defined herein).
 - (c) **Contract Change** means any change order, change of time, extensions of time, amendment, modification, addition, or other alteration, material or otherwise, to the Contract, the contract price or amount, the work to be performed under the Contract, or the specifications accompanying same.
3. **Guaranty:** The Principal and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner, as obligee of the Bond, for the full and faithful performance of the Contract and any Contract Changes. The Principal and Surety likewise guarantee the faithful performance of the prevailing hourly wage as set forth in the schedule incorporated into the bid documents unless the Project is exempt from the prevailing wage requirements of KRS 337.505 through 337.550.

4. **Bond Amount:** The bond amount is \$[AMOUNT], which shall be increased automatically by Contract Changes to the contract price or amount and shall not limit the Surety's obligation or liability under the Bond for paying attorney fees, costs, or other legal expenses incurred by the Owner, which may be in excess of the bond amount as increased.

5. **Defeasance:** Except as provided by the Contract, the Principal and Surety shall have no obligations under the Bond if the Principal during the original term thereof, any extensions thereof which may be granted by the Owner with or without notice to the Surety, the guaranty period, the warranty period, and other periods limited only by statutes of limitation (a) well, truly, and faithfully performs its duties to the Owner; (b) performs the Contract; (c) satisfies all claims and demands incurred under the Contract; (d) fully indemnifies and saves harmless the Owner from all costs, damages, attorney fees, consultant fees, and other expenses that it may suffer by reason of the Principal's failure to do so; and (e) reimburses and repays the Owner all such expenses and outlay, without limitation, which the Owner may incur in making good any default. The Bond will otherwise remain in full force and effect.

6. **Amendment:** The Bond, including without limitation the Bond Amount, will be deemed amended, automatically and immediately without separate or written amendments hereto, upon any Contract Changes. The Principal and Surety agree to be bound by any Contract Changes. The Surety waives notice of any Contract Changes.

7. **Interpretation:** The Bond will be interpreted and enforced in accordance with Kentucky law. The Principal and Surety agree that they have taken part in drafting the Bond, which will not be construed against or in favor of any other party on the basis of drafting. To the extent that this instrument contradicts the Contract, the Contract will control.

IN WITNESS WHEREOF, the Principal and Surety, by their duly authorized representatives, have executed this instrument, which is effective as of [DATE].

ATTEST:
WITNESSES:

PRINCIPAL

Witness as to PRINCIPAL

By

Witness as to PRINCIPAL

Title

ATTEST:
WITNESSES:

SURETY

Witness as to SURETY

By

Witness as to SURETY

Attorney-in-Fact

A F F I D A V I T

Comes the affiant and after having been duly sworn states as follows:

1. That affiant is the contractor awarded a contract by the University of Kentucky on Project #2520.0 Specialty Graphics, Signage, and Way-finding for the Improve Memorial Coliseum Project.
2. That all contractors and subcontractors employed, or that will be employed, under the provisions of this contract are in compliance with Kentucky requirements for Workers' Compensation Insurance according to KRS Chapter 342 and Unemployment Insurance according to KRS Chapter 341.

Further, the affiant sayeth naught.

By: _____

Title: _____

Contractor: _____

State of _____)

County of _____)

Subscribed and sworn to before me by _____ on this _____

day of _____, 2020.

My commission expires _____

Notary Public, State at Large

ATTACHMENT "E" – Wood Flooring Schedule

Wood Flooring Schedule

- **April 15th** – Wood Planks Delivered to arena for acclimation
- **April 22nd** – Sleeper system installation to begin
- **April 29th** – Wood Plank installation to begin
- **June 17th** – Plank sanding and finishing to begin
- **July 12th** – Flooring graphic installation completed

UNIVERSITY OF KENTUCKY
CAPITAL CONSTRUCTION PROCUREMENT SECTION

**CONTRACTOR/BIDDER
DETERMINATION OF RESPONSIBILITY**

1. Purpose

The Commonwealth of Kentucky Model Procurement Code (KRS 45A.080) requires that a contract be awarded to the lowest responsive and responsible bidder whose bid offers the best value. KRS 45A.070(6) defines "Responsible bidder or offeror "as" a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance," and "Best value" as "a Procurement in which the decision is based on the primary objective of meeting the specific business requirements and best interests of the Commonwealth." The information requested in this document is to be used to evaluate the "responsibility" by verifying the apparent low bidder:

- (a) Has adequate financial resources (in working capital and bonding capacity) in relation to the scope and dollar amount of the project or the ability to secure such resources;
- (b) Has the experience, organization, technical qualification, available personnel resources, and has or can acquire the equipment necessary to perform the scope of work bid;
- (c) Is able to comply with the required performance schedule or completion date, taking into account existing commitments (i.e. capacity); and
- (d) Has a satisfactory record of performance, integrity, judgment and skills to complete the project bid.

The information provided must verify that the bidding firm has a sufficient level of expertise, experience, financial stability, and personnel resources to qualify the firm as being "responsible" prior to proceeding with an award of Contract. The determination of the firm's capability and responsibility will be made as fairly and honestly as possible using a reasonable exercise of sound judgment and discretion in the review of information provided or otherwise secured through references or other sources.

2. Application Submittal

The low responsive Bidder must complete the information requested by typing or clearly printing responses in ink. All information requested must be provided. If a question does not apply, insert "NA" for not applicable. The University of Kentucky reserves the right to request supplemental information to fully determine responsibility of the Bidder. The Bidder agrees to provide supplemental information, if requested by the University.

3. Insurance Requirements

The Successful Bidder will be required to provide proof of insurance indicating current liability coverages, including workers compensation, with limits equal to or exceeding the amounts required by the bid documents. Additionally, builders risk coverage equal to the Contract amount will be required of the successful contractor.

*NOTE: Pursuant to KRS 45A. 110, except as otherwise provided under the Open Records Act and any other applicable law, the Bidder has the right of nondisclosure to the public of certain information required by this submittal. If the Bidder wishes nondisclosure of certain information he/she shall enclose the confidential information in a separate envelope marked CONFIDENTIAL and forward it with the information and other submittals required by this document. If this is not done, he/she waives the right of nondisclosure of this information and the signing of the Bid Proposal shall constitute written waiver of that right.

**Note: The contractor offering the apparent low bid will be required to either have on file with the University or supply the information required by Part I of this submittal within twenty four (24) hours of the bid opening. If the information required by Part I is on file with the University and is current and accurate, only the information requested by Part II will be completed and submitted by the apparent low bidder. All bidders must update and keep current all previously submitted "on file" Part I information .*

Part I
Contractor/Bidder Responsibility
Determination Information Submittal

1. Name of Firm _____
Street Address _____
City, State, Zip _____
County _____
Business Phone(____) _____ Telefax (____) _____

2. Mailing Address _____
City, State, Zip _____

3. Contact Person _____

4. Type of Firm Corporation Partnership
 Sole Proprietorship Individual
 Joint Venture Other (Explain)

5. If your firm is a corporation, provide the following:

Date of incorporation _____ State of incorporation _____

States where corporation is authorized to conduct business _____

Attach proof that corporation is in good standing with the Kentucky Secretary of State.

6. If your firm is an individual or partnership, provide the following:

Date of organization _____

If a partnership, is it limited or general? _____

Name and address of all partners and specify their respective partnership participation, i.e., limited, general, managing.

7. If your firm is other than a corporation, individual or partnership, describe organization and identify principals.

8. In the space provided below, describe the type(s) of construction and project management expertise offered by your company.

(use additional pages if required) _____

9. List key persons (partners, owners, officers and directors). Include any other persons who have duties, responsibilities or authority typically delegated to partners, owners, officers or directors. Provide organization chart of the key individuals in the firm.

<u>Name of Person</u>	<u>Position/title</u>	<u>% Ownership</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

10. In the past five years, has the firm ever been fined for violating state or federal safety or environmental laws? Yes _____ No If yes, attach an explanation.

11. Has any key person with the firm ever been convicted of any state or federal crime (excluding traffic violations), including but not limited to embezzlement, theft, bribery, falsification or destruction of records, receipt of stolen property, criminal anti-trust violations or bid-rigging? _____ Yes No If yes, attach an explanation.

12. Has a civil court issued a judgment of \$10,000 or more against the firm in the past five years? _____ Yes _____ No If yes, attach an explanation.

13. Is the firm currently a party to a pending lawsuit with a potential damages alleged of \$10,000 or more? _____ Yes _____ No If yes, attach an explanation.

14. In the past five years, has the firm been terminated from or failed to complete any contract? _____ Yes _____ No If yes, attach an explanation.

15. How many years has the firm been in business? _____ years _____ months

16. Performance and Payment Bonds

Surety Company Name _____

Street Address _____

City, State, Zip _____

Phone Number () _____ Fax () _____

Local Bond Agency _____

Kentucky Licensed Agent _____

Street Address _____

City, State, Zip _____

Phone Number () _____ Fax () _____

17. Current level of bonding capacity authorized by the surety.

Single Limit \$ _____ Aggregate Limit \$ _____

18. Bank Reference

Bank Name _____

Street Address _____

City, State, Zip _____

Phone Number () _____ Fax () _____

Contact Person _____

NOTE: The apparent low bidder will be required to complete and submit to the University the following information by twelve (12) noon of the second working day following the bid opening or other time as may be established during the post bid review of the bid submittal. The information requested in this submittal is required to assist the University in determining contractor responsibility to complete the project being bid.

PART II

Contractor/Bidder Responsibility
Determination Information Submittal

1. Name of Firm _____

Street Address _____

City, State, Zip _____

County _____

Business Phone(____) _____ Telefax (____) _____

2. Mailing Address _____

City, State, Zip _____

3. Contact Person _____

4. The information previously submitted under Part I of this document is current and accurate and no changes to Part I are necessary at this time. _____ True _____ False If False, the bidder shall submit with the Part II submittal corrections as required to update the Part I information.

5. In the space provided below, describe the type(s) of construction and project management expertise offered by your company to substantiate the company's experience in the type of project, type of construction, or the

management of the type of construction required for this project. You should indicate a detailed plan to execute and manage this project, as well as any technological planning systems employed.

(use additional pages if required) _____

6 List the name and title of the home office administrative project manager who will be assigned and responsible for this project. A current resume of this individual shall be attached to this submittal. The resume should include a list of projects for which this project manager has been responsible within the past five (5) years.

Name of Manager _____ Title _____

7. List the name and title of the on site manager that will be assigned and responsible for this project. A current resume of this individual shall be attached to this submittal. This resume should include a list of projects for which this manager has been responsible within the past five (5) years..

Name of Project Manager _____ Title _____

8. List the name and title of the on site project superintendent who will be assigned and responsible for this project. A current resume of this individual shall be attached to this submittal. This resume should include a list of projects for which this superintendent has been responsible within the past five (5) years.

Name of Project Superintendent _____ Title _____

9. How many full-time, non-labor employees does the firm currently have? _____

10. How many full-time, labor/trade employees does the firm currently have? _____

11. What is your firm's average annual dollar volume of work for the past five (5) years? \$ _____

12. List below, by specification section, the work you plan to complete with your own work force or with subcontractors. In the blanks provided please indicate the specification section and "O" for own forces and "S" for subcontracted work.

Spec. Section	"O" or "S"	Spec. Section	"O" or "S"	Spec. Section	"O" or "S"
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

13. What percentage of the total work do you estimate will be performed with your own work force? _____%

14. How long has the firm been engaged in the type contracting required by this project? ____years____ months

15. List below five of your most recently completed projects that demonstrate your ability to complete the type work required by the project being bid. (NOTE: The inability to list five such projects will not necessarily prevent a determination of responsibility.)

A. Project Title_____ Owner_____

Contract Amount_____ Completion date_____

Owner Phone Number ()_____ Fax ()_____

Name of Owner Contact_____

Architect/Engineer_____ Phone No.()_____

Brief description of your firm's work and responsibility in this project.

B. Project Title_____ Owner_____

Contract Amount_____ Completion date_____

Owner Phone Number ()_____ Fax ()_____

Name of Owner Contact_____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

C. Project Title _____ Owner _____

Contract Amount _____ Completion date _____

Owner Phone Number () _____ Fax () _____

Name of Owner Contact _____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

D. Project Title _____ Owner _____

Contract Amount _____ Completion date _____

Owner Phone Number () _____ Fax () _____

Name of Owner Contact _____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

E. Project Title _____ Owner _____
 Contract Amount _____ Completion date _____
 Owner Phone Number () _____ Fax () _____
 Name of Owner Contact _____
 Architect/Engineer _____ Phone No.() _____
 Brief description of your firm's work and responsibility in this project.

16. List below all projects that are currently under construction that demonstrate your ability to complete the type work required by the project being bid.

A. Project Title _____ Owner _____
 Contract Amount _____ Completion date _____
 Owner Phone Number () _____ Fax () _____
 Name of Owner Contact _____
 Architect/Engineer _____ Phone No.() _____
 Brief description of your firm's work and responsibility in this project.

B. Project Title _____ Owner _____
 Contract Amount _____ Completion date _____
 Owner Phone Number () _____ Fax () _____

Name of Owner Contact _____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

C. Project Title _____ Owner _____

Contract Amount _____ Completion date _____

Owner Phone Number () _____ Fax () _____

Name of Owner Contact _____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

D. Project Title _____ Owner _____

Contract Amount _____ Completion date _____

Owner Phone Number () _____ Fax () _____

Name of Owner Contact _____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

E. Project Title _____ Owner _____

Contract Amount _____ Completion date _____

Owner Phone Number () _____ Fax () _____

Name of Owner Contact _____

Architect/Engineer _____ Phone No.() _____

Brief description of your firm's work and responsibility in this project.

Attach additional pages as required.

17. Participation of Minority and Women owned contractors and businesses.

It is the goal of the University of Kentucky that at least 10.9% of the contract dollar amount be completed by minority owned contractors and businesses and at least 6.9% of the total contract amount be completed by women owned contractors and businesses. Provide in the spaces below those contracts that will be issued to minority or women contractors and material suppliers upon award of a contract.

A. Name Subcontractor/Material Supplier _____

Contractor/Vendor Classification _____ Contract Amount _____

Contractor/ Supplier Address _____

Owner Phone Number() _____ Fax() _____

Name of Owner Contact _____

Brief description of the Subcontractor/Material supplier work or responsibility on this project.

B. Name Subcontractor/Material Supplier _____

Contractor/Vendor Classification _____ Contract Amount _____

Contractor/ Supplier Address _____

Owner Phone Number() Fax()

Name of Owner Contact

Brief description of the Subcontractor/Material supplier work or responsibility on this project.

C. Name Subcontractor/Material Supplier

Contractor/Vendor Classification Contract Amount

Contractor/ Supplier Address

Owner Phone Number() Fax()

Name of Owner Contact

Brief description of the Subcontractor/Material supplier work or responsibility on this project.

D. Name Subcontractor/Material Supplier

Contractor/Vendor Classification Contract Amount

Contractor/ Supplier Address

Owner Phone Number() Fax()

Name of Owner Contact

Brief description of the Subcontractor/Material supplier work or responsibility on this project.

E. Name Subcontractor/Material Supplier

Contractor/Vendor Classification Contract Amount

Contractor/ Supplier Address _____

Owner Phone Number(_____) Fax(_____)

Name of Owner Contact _____

Brief description of the Subcontractor/Material supplier work or responsibility on this project.

Attach additional pages as required.

17A Calculation of Total Participation by Contractor/Supplier Classification

Minority Contract	Amount	Women Contract	Amount
1. _____	\$ _____	1. _____	\$ _____
2. _____	\$ _____	2. _____	\$ _____
3. _____	\$ _____	3. _____	\$ _____
4. _____	\$ _____	4. _____	\$ _____
5. _____	\$ _____	5. _____	\$ _____
6. _____	\$ _____	6. _____	\$ _____
7. _____	\$ _____	7. _____	\$ _____
8. _____	\$ _____	8. _____	\$ _____
9. _____	\$ _____	9. _____	\$ _____
10. _____	\$ _____	10. _____	\$ _____
TOTAL \$ _____		TOTAL \$ _____	

17B Total Minority Owned Percentage

Total Minority Owned Amount from above \$ _____ divided by the Total Contract Amount bid \$ _____ Equals _____ %.

17C. Total Women Owned Percentage

Total Women Owned Amount from above \$ _____ divided by the Total Contract Amount bid \$ _____ Equals _____ %.

17D. If the total dollar amount of these contracts do not exceed 10.8% for minority owned and 6.9% for women owned contractors and suppliers you must provide documentation of your efforts to meet the established goal of participation.

We made the following efforts to involve Minority and Women Owned Contractors and material suppliers on this project. (List efforts made and attach proof of these efforts)

Certification and Signature:

I hereby certify that I am an authorized principal of the firm and I:

1. Have read, and understand the reason for submitting this information;
2. Agree, upon request, to provide any additional information that may be necessary for determination of contractor responsibility;
3. Will, upon request, provide complete financial statements within five business days;
4. Swear or affirm that all information provided on this submittal is true;
5. Understand that if any of the responses are found to be materially untrue, the firm will be ineligible to be awarded a contract.

Your signature on this document is a sworn statement to the University of Kentucky. This document must be signed by the firm's CEO, president, vice-president, partner or sole owner.

Under penalties of perjury, I hereby swear or affirm, warrant and represent that the above answers and information have been personally provided by me, and that I have the authority to execute this document on behalf of this firm.

Signature _____
Name _____
Title _____

State of _____)
County of _____)

Subscribed and sworn to before me on this _____ day of _____, 199____, by

_____, _____ acting for and on behalf of
(name) (office held)

(firm)

Notary Public _____, Kentucky
My Commission expires _____

SECTION 09 6466 - WOOD ATHLETIC FLOORING

PART 1 GENERAL

1.01 RELATED DOCUMENTS

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

1.02 SUMMARY

- A. This Section includes wood athletic flooring.
- B. Related Requirements:
 - 1. Section 096400 "Wood Flooring" for traditional solid-wood and engineered-wood, strip, plank, and parquet flooring.

1.03 COORDINATION

- A. Coordinate layout and installation of slab depressions to accommodate layout and height of wood athletic flooring assembly.
- B. Coordinate layout and installation of flooring with floor inserts for gymnasium equipment.

1.04 ACTION SUBMITTALS

- A. Product Data: For each type of product.
 - 1. Include construction details, material descriptions, dimensions of individual components and profiles, and finishes for wood athletic flooring.
- B. Shop Drawings: For each type of floor assembly, include the following:
 - 1. Plans, sections, and attachment details.
 - 2. Details of concrete-slab depressions.
 - 3. Locations of different grades of wood flooring.
 - 4. Expansion provisions and trim details.
 - 5. Layout, colors, widths, and dimensions of game lines and markers.
 - 6. Locations of floor inserts for athletic equipment installed through flooring assembly.
- C. Samples for Initial Selection: For each type of wood athletic flooring and accessory in each type of exposed color and finish.
 - 1. Include manufacturer's color charts showing colors and glosses available for the following:
 - a. Floor finishes.
 - b. Game-line and marker paints.
- D. Samples for Verification: For each type of wood athletic flooring and accessory required; approximately 12 inches (300 mm) long and of same thickness and material indicated for the Work.
 - 1. Include Sample sets showing the full range of normal color and texture variations expected in wood flooring.
 - 2. Include Sample sets showing finishes and game-line and marker paints applied to wood flooring.

1.05 INFORMATIONAL SUBMITTALS

- A. Product Test Reports: For each wood athletic flooring system, for tests performed by a qualified testing agency.

1.06 CLOSEOUT SUBMITTALS

- A. Maintenance Data: For wood athletic flooring and finish systems to include in maintenance manuals.

1.07 QUALITY ASSURANCE

- A. Certified Wood: Provide an invoice including vendor's chain-of-custody number, product cost, and entity being invoiced.
- B. Vendor Qualifications: A vendor that is certified for chain of custody by an FSC-accredited certification body.
- C. Installer Qualifications: A firm or individual that has been approved by MFMA as an accredited Installer according to the MFMA Accreditation Program.
 - 1. Installer responsibilities include installation and field finishing of wood athletic flooring components and accessories, and application of game lines and markers.
- D. Mockups: Build mockups to verify selections made under Sample submittals, to demonstrate aesthetic effects, and to set quality standards for installation.
 - 1. Approval of mockups does not constitute approval of deviations from the Contract Documents contained in mockups unless Architect specifically approves such deviations in writing.
 - 2. Subject to compliance with requirements, approved mockups may become part of the completed Work if undisturbed at time of Substantial Completion.

1.08 DELIVERY, STORAGE, AND HANDLING

- A. Deliver floor assembly materials in unopened cartons or bundles.
- B. Protect wood from exposure to moisture. Do not deliver wood components until after concrete, masonry, plaster, ceramic tile, and similar wet-work is complete and dry.
- C. Store wood components in a dry, warm, well-ventilated, weathertight location and in a horizontal position.

1.09 FIELD CONDITIONS

- A. Conditioning period begins not less than seven days before wood athletic flooring installation, is continuous through installation, and continues not less than seven days after installation.
 - 1. Environmental Conditioning: Maintain ambient temperature between 65 and 75 deg F (18 and 24 deg C) and relative humidity planned for building occupants, but not less than 35 percent or more than 50 percent, in spaces to receive wood athletic flooring during the conditioning period.
 - 2. Wood Conditioning: Move wood components into spaces where they will be installed, no later than beginning of the conditioning period.
 - a. Do not install wood athletic flooring until wood components adjust to relative humidity of, and are at same temperature as, spaces where they are to be installed.
 - b. Open sealed packages to allow wood components to acclimatize immediately on moving wood components into spaces in which they will be installed.
- B. After conditioning period, maintain relative humidity and ambient temperature planned for building occupants.
- C. Install wood athletic flooring after other finishing operations, including painting, have been completed.

PART 2 PRODUCTS

2.01 MANUFACTURERS

- A. Available Products: Subject to compliance with requirements, similar products to the Basis of Design may be provided for review and acceptance per substitution submittal requirements.
- B. Basis of Design Product: Connor Sports Flooring, Inc.; Rezill Channel.

2.02 SYSTEM DESCRIPTION

- A. System Type: Anchored resilient.

- B. Overall System Height: 2-1/8 inches (54 mm).

2.03 PERFORMANCE REQUIREMENTS

- A. Certified Wood: Certify wood products as "FSC Pure" or "FSC Mixed Credit" in accordance with FSC STD-01-001 and FSC STD-40-004.
- B. Composite Wood Products: Verify products are made using ultra-low-emitting formaldehyde resins, as defined in the California Air Resources Board's "Airborne Toxic Control Measure to Reduce Formaldehyde Emissions from Composite Wood Products," or are made with no added formaldehyde.

2.04 FLOORING MATERIALS

- A. Maple Flooring: Comply with MFMA grading rules for species, grade, and cut.
 - 1. Certification: Provide flooring that carries MFMA mark on each bundle or piece.
- B. Random-Length Strip Flooring: Northern hard maple (*Acer saccharum*), kiln dried, random length, tongue and groove, and end matched.
 - 1. Grade: MFMA-RL Second and Better.
 - a. Exception: For areas under stacked portion of telescoping bleachers that are normally concealed from view, provide Third and Better Grade.
 - 2. Cut: Flat.
 - 3. Thickness: 25/32 inch (20 mm).
 - 4. Face Width: 2-1/4 inches (57 mm).

2.05 SUBFLOOR MATERIALS

- A. Board Underlayment: Nominal 1-by-6-inch (25-by-150-mm) graded boards; of SPIB No. 2 Southern pine, WCLIB Construction grade (any species), or WWPA No. 3 (any species), dried to 15 percent moisture content.
 - 1. Preservative Treatment: Clear, penetrating, water-repellent wood preservative that protects against mold, mildew, staining, and decay fungi; complying with MFMA's written recommendations and applied by immersion.
- B. Plywood Underlayment: 2 layers of 15/32" (18 mm) thick APA rated plywood sheathing, Exposure 1.
- C. Channels: Manufacturer's standard as indicated by product designation above.
 - 1. Channel Anchors: Manufacturer's standard, but not less than modified steel drive pins recommended by anchor manufacturer to achieve minimum 900-lbf (4000-N) pullout strength.
 - 2. Clips: Manufacturer's standard as indicated by product designation above.
- D. Resilient Pads: With air voids for resiliency and installed at manufacturer's standard spacing for product designation indicated above.
 - 1. Type: 2-inch by 2-inch square pad.
 - 2. Material: Neoprene.
 - 3. Thickness: 7/16 inch (11 mm).

2.06 FINISHES

- A. Floor-Finish System: System of compatible components recommended in writing by flooring manufacturer, and MFMA approved.
 - 1. Floor-Sealer Formulation: Pliable, penetrating type. MFMA Group 1, Sealers.
 - 2. Finish-Coat Formulation: Formulated for gloss finish indicated and multicoat application.
 - a. Type: MFMA Group 3, Gymnasium-Type Surface Finishes.
 - 3. Game-Line and Marker Paint: Industrial enamel compatible with finish coats and recommended in writing by manufacturers of finish coats, and paint for this use.
 - 4. Verify products comply with the requirements of the California Department of Public Health's "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions from Indoor Sources Using Environmental Chambers."

2.07 ACCESSORIES

- A. Vapor Retarder: ASTM D4397, polyethylene sheet not less than 6 mils (0.15 mm) thick.
- B. Resilient Wall Base: Molded, vented, rubber or vinyl cove base; 4 by 3 by 48 inches (100 by 75 by 1200 mm); with premolded outside corners.
 - 1. Color: Black.
- C. Thresholds: As specified in Section 087100 "Door Hardware."
- D. Fasteners: Type and size recommended by manufacturer, but not less than those recommended by MFMA for application indicated.
- E. Trowelable Leveling and Patching Compound: Latex-modified, hydraulic-cement-based formulation approved by wood athletic flooring manufacturer.
- F. Adhesives: Manufacturer's standard for application indicated.
 - 1. Verify adhesive has a VOC content of 100 g/L or less.
 - 2. Verify adhesive complies with the testing and product requirements of the California Department of Public Health's "Standard Method for the Testing and Evaluation of Volatile Organic Chemical Emissions from Indoor Sources Using Environmental Chambers."

PART 3 EXECUTION

3.01 EXAMINATION

- A. Examine substrates, areas, and conditions, with Installer present, for compliance with requirements for maximum moisture content, installation tolerances, and other conditions affecting performance of the Work.
- B. Proceed with installation only after unsatisfactory conditions have been corrected.
- C. Concrete Slabs: Verify that concrete substrates are dry and moisture-vapor emissions are within acceptable levels according to manufacturer's written instructions.
 - 1. Moisture Testing: Perform tests so that each test area does not exceed 200 sq. ft. (18.6 sq. m), and perform no fewer than three tests in each installation area and with test areas evenly spaced in installation areas.
 - a. Anhydrous Calcium Chloride Test: ASTM F1869. Proceed with installation only after substrates have maximum moisture-vapor-emission rate of 3 lb of water/1000 sq. ft. (1.36 kg of water/92.9 sq. m) in 24 hours.
 - b. Perform additional moisture tests recommended by manufacturer. Proceed with installation only after substrates pass testing.

3.02 PREPARATION

- A. Concrete Slabs:
 - 1. Grind high spots and fill low spots on concrete substrates to produce a maximum 1/8-inch (3-mm) deviation in any direction when checked with a 10-foot (3-m) straight edge.
 - 2. Use trowelable leveling and patching compounds, according to manufacturer's written instructions, to fill cracks, holes, and depressions in substrates.
 - 3. Remove coatings including curing compounds and other substances on substrates that are incompatible with installation adhesives and that contain soap, wax, oil, or silicone; use mechanical methods recommended by manufacturer. Do not use solvents.
- B. Broom and vacuum clean substrates to be covered immediately before product installation. After cleaning, examine substrates for moisture, alkaline salts, carbonation, or dust. Proceed with installation only after unsatisfactory conditions have been corrected.

3.03 INSTALLATION

- A. Comply with wood athletic flooring manufacturer's written instructions, but not less than written recommendations of MFMA applicable to flooring type indicated.

- B. Pattern: Lay flooring parallel with long dimension of space to be floored unless otherwise indicated.
- C. Expansion Spaces: Provide as indicated, but not less than that required by manufacturer's written instructions and MFMA's written recommendations at walls and other obstructions, and at interruptions and terminations of flooring.
 - 1. Cover expansion spaces with base molding, trim, and saddles, as indicated on Drawings.
- D. Vapor Retarder: Cover entire slab area beneath wood flooring. Install with joints lapped a minimum of 6 inches (150 mm) and sealed.
- E. Underlayment: Install perpendicular to direction of flooring, staggering end joints in adjacent rows.
- F. Channels: Anchor channels to substrate according to manufacturer's written instructions.
 - 1. Install wood strip flooring across channels.
 - 2. Insert steel clip at each intersection of a flooring strip with a channel.
- G. Strip Flooring: Mechanically fasten perpendicular to supports.
- H. Parquet Flooring: Adhere to substrates according to manufacturer's written instructions.
- I. Installation Tolerances: 1/8 inch in 10 feet (3 mm in 3 m) of variance from level.

3.04 SANDING AND FINISHING

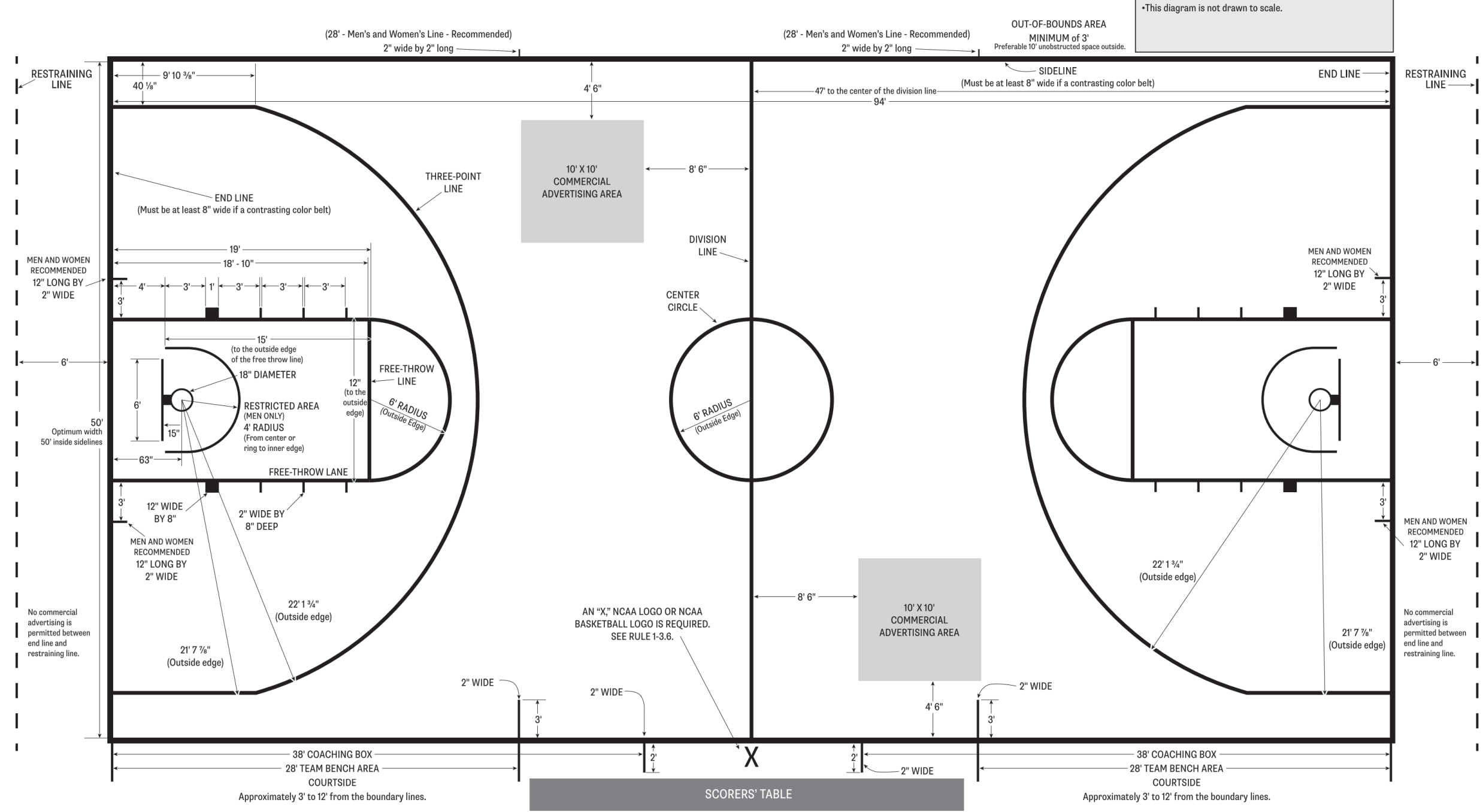
- A. Allow installed flooring to acclimate to ambient conditions before sanding.
- B. Follow applicable recommendations in MFMA's "Industry Recommendations for Sanding, Sealing, Court Lining, Finishing, and Resurfacing of Maple Gym Floors."
- C. Machine sand with coarse, medium, and fine grades of sandpaper to achieve a level, smooth, uniform surface without ridges or cups. Remove sanding dust by tack or vacuum.
- D. Finish: Apply seal and finish coats of finish system according to finish manufacturer's written instructions. Provide no fewer than four coats total and no fewer than two finish coats.
 - 1. Water-Based Finishes: Use finishing methods recommended by finish manufacturer to reduce grain raise and sidebonding effect.
 - 2. Game-Line and Marker Paint: Apply game-line and marker paint between final seal coat and first finish coat according to paint manufacturer's written instructions.
 - a. Mask flooring at game lines and markers, and apply paint to produce lines and markers with sharp edges.
 - b. Where game lines cross, break minor game line at intersection; do not overlap lines.
 - c. Apply game lines and markers in widths and colors according to requirements indicated on Drawings and as directed by Owner.
 - d. Apply finish coats after game-line and marker paint is fully cured.
 - e. Coordinate graphics with Owner's project manager.

3.05 PROTECTION

- A. Protect wood athletic flooring during remainder of construction period to allow finish to cure and to ensure that flooring and finish are without damage or deterioration at time of Substantial Completion.
 - 1. Do not cover flooring after finishing until finish reaches full cure and not before seven days after applying last finish coat.
 - 2. Do not move heavy and sharp objects directly over flooring. Protect fully cured floor finishes and surfaces with plywood or hardboard panels to prevent damage from storing or moving objects over flooring.

END OF SECTION 09 6466

2023-24 NCAA Men's and Women's Basketball Court



NCAA BASKETBALL COURT DIAGRAM **G8**
1/8" = 1'-0"

RULE 1 / FACILITIES AND EQUIPMENT 15

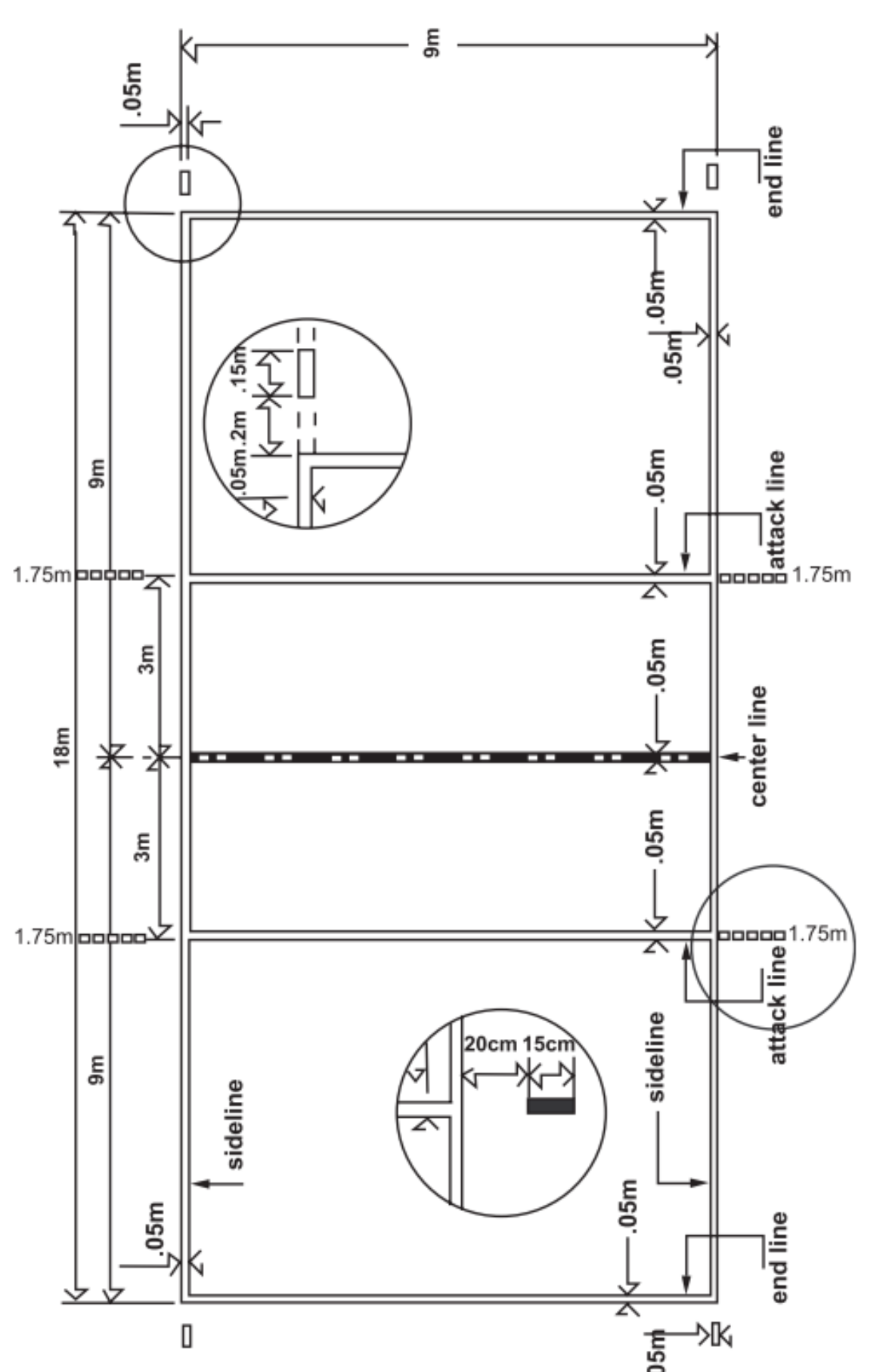
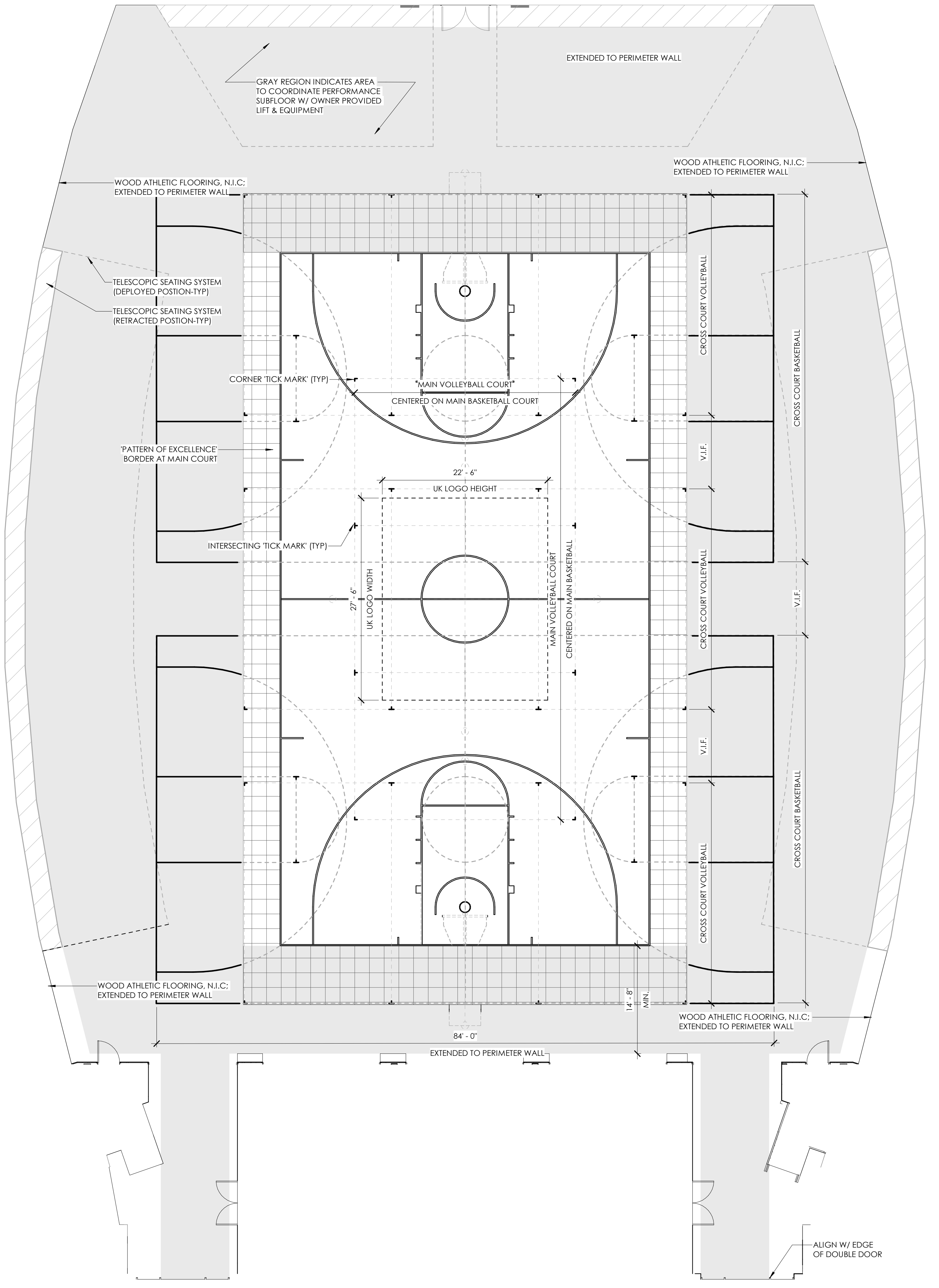


Figure 1 - THE COURT

NCAA VOLLEYBALL COURT DIAGRAM **A8**
1/8" = 1'-0"



EVENT LEVEL SPORTS STRIPING PLAN **A2**
1/8" = 1'-0"

MATERIAL REFERENCE

- STRIPING REQUIREMENTS**
- SHALL FOLLOW NCAA RULE BOOKS, UNO
 - ALL EVENT STRIPING SHALL BE VERIFIED WITH THE ASSOCIATED EQUIPMENT LOCATIONS ON SITE PRIOR TO INSTALLATION
- STRIPING HIERARCHY**
- OVERLAPPING EVENT STRIPING SHALL FOLLOW A STRIPING HIERARCHY AS LISTED BELOW. EVENTS WITH A LOWER PRIORITY SHALL BREAK FOR EVENTS WITH A HIGHER PRIORITY.
- MAIN BASKETBALL
 - MAIN VOLLEYBALL
 - CROSS BASKETBALL
 - CROSS VOLLEYBALL
- COURT STRIPING**
- MAIN BASKETBALL LINES SHALL BE 2" WIDE AND INSTALLED AS SHOWN.
COLOR: PMS OPAQUE WHITE (VERIFY)
- MAIN BASKETBALL BORDER AND LANES SHALL BE PAINTED IN SOLID COLOR AS SHOWN. BORDER SHALL BE CHECKER BOARD 'PATTERN OF EXCELLENCE' AS SHOWN.
PRIMARY COLOR: PMS 3866 (VERIFY)
SECONDARY COLOR: PMS 281 (VERIFY)
- MAIN VOLLEYBALL COURT LINES SHALL BE 2" TICK MARKS AT CORNERS AND ATTACK LINES AS SHOWN.
COLOR: BEIGE (VERIFY)
- CROSS BASKETBALL COURT LINES SHALL BE 2" WIDE CONTINUOUS OUTSIDE THE MAIN COURT BORDER. NO LINE WORK OVER THE MAIN COURT WITH THE EXCEPTION OF TICK MARKS AT FREE THROW LINES AS SHOWN. TICK MARKS SHALL BE 1/4" X 2".
COLOR: BEIGE
- CROSS VOLLEYBALL COURT LINES SHALL BE 1/4" WIDE X 2" LONG TICK MARKS AT CORNERS AND ATTACK LINES OVER MAIN COURT. LINE WORK OUTSIDE OF MAIN COURT SHALL BE CONTINUOUS (1" WIDTH).
COLOR: BEIGE AT CLEAR WOOD (VERIFY)
COLOR: BLACK AT BORDER (VERIFY)
- GRAPHICS AND ARTWORK**
- FINAL GRAPHICS AND ARTWORK SHALL BE COORDINATED WITH UNIVERSITY AND ARCHITECT PRIOR TO FINAL INSTALLATION.

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SPORTS FLOOR PLAN
IMPROVE MEMORIAL COLISEUM
FOR:
THE UNIVERSITY OF KENTUCKY
LEXINGTON, KENTUCKY

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UK#	2604.0	
Project No:	1924	
Drawn By:	SLB	
Rev'd By:	DC	
ISSUED FOR:		
REVISIONS		
#	DATE	DESCRIPTION
14	08/04/23	WD FL RFP

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CONSTRUCTION DOCUMENTS

A920
SPORTS FLOOR PLAN

DATE ISSUED:
FEBRUARY 14, 2023