

RESOLUTION

No. 2011-400

By Commissioner Woronchak and Co-sponsored by Commissioner Varga

RESOLVED, by the Wayne County Commission this 1st day of September, 2011 that approval be, and is hereby, granted authorizing a contract between the Charter County of Wayne and Walbridge, Inc. not to exceed \$220,000,000 to act as the Construction Manager at Risk (CMAR) for the Consolidated Jail Complex, including the approval of the Pre-Construction and Construction Management contracts, as recommended by the Chief Executive Officer; and be it further

RESOLVED, that the term of the contract is from September 1, 2011 through March 1, 2015 and the cost of the contract will be charged to Account No. 469 26252 975200 (2010 Jail Bonds); and be it further

RESOLVED, that the Chief Executive Officer be, and is hereby, duly authorized to execute the aforementioned contract on behalf of the Charter County of Wayne.

[Contract on File]

(2011-31-058)



Robert A. Ficano
County Executive

August 16, 2011

The Honorable Gary Woronchak, Chairman
Wayne County Commission
500 Griswold, 7th Floor
Detroit, MI 48226

RE: Construction Manager at Risk ("CMAR") with Walbridge Inc.

Dear Chairman Woronchak,

On behalf Wayne County's Building Authority ("Authority") and the Department of Management and Budget (M&B) we are requesting the approval of several required documents in regards to selection of a construction manager for the new Wayne County Consolidated Jail Project. In May of 2011 the Authority, through the Department of Management and Budget, released a Request for Proposal regarding the construction of the new Wayne County Consolidated Detention Facility. A six panel committee comprising of Wayne County employees reviewed each proposal. Additionally, this committee interviewed each of the teams submitting a proposal. ,

Negotiations have concluded with the proposed vendor, and the selection committee is now recommending to the Wayne County Commission, the Authority and the Wayne County Executive that the attached Pre-Construction and Construction Contract be executed with Walbridge Inc. Walbridge, Inc is a Detroit/Wayne County Headquartered firm who has brought in DCK International as a partner to construct this new facility. In its proposal, Walbridge demonstrated a century old commitment to the Detroit Wayne County area. Additionally, the Walbridge proposal also demonstrated that its international reputation for building large scale public projects would be invaluable. DCK has been a leader in building correctional facilities. This combined experience ensures a successful project.

Approval of this contract by August 17, 2011 will ensure that the County maintains its schedule to complete and occupy this new facility by 2014. It should be noted that any delays in approvals or executions of contracts currently costs the County approximately \$27,000 a day in interest. Therefore, we are asking the Commission to address this issue in an expedient manner.

If you should require additional information do not hesitate to give me a call.

Thank you in advance for your attention to this matter.

Sincerely,

Carla E. Sledge
Chief Financial Officer

Sincerely,

Robert A. Ficano
Wayne County Executive

DEPARTMENT OF MANAGEMENT AND BUDGET
500 GRISWOLD • DETROIT, MICHIGAN 48226 • (313) 224-7766 • www.waynecounty.com



TAB 1

PRE-CONSTRUCTION SERVICES AGREEMENT

TAB 2

GUARANTEED MAXIMUM PRICE
CONSTRUCTION MANAGEMENT AGREEMENT

Tab 1

PRE-CONSTRUCTION SERVICES AGREEMENT

**FOR THE
WAYNE COUNTY CONSOLIDATED JAIL FACILITY
DETROIT, MICHIGAN**

**WAYNE COUNTY BUILDING AUTHORITY
OWNER**

**WALBRIDGE-dck JOINT VENTURE
CONSTRUCTION MANAGER AT RISK**

_____, 2011

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PRE-CONSTRUCTION SERVICES AGREEMENT

THIS AGREEMENT, entered into as of the _____ day of August, 2011, by and between THE WAYNE COUNTY BUILDING AUTHORITY, a Michigan municipal corporation, whose address is 500 Griswold, 21st floor, Detroit, Michigan 48226, (hereinafter referred to as the "Owner") and WALBRIDGE-dck JOINT VENTURE, a Michigan joint venture, whose address is 777 Woodward Avenue, Ste. 300, Detroit, MI 48226 (hereinafter referred to as the "CMAR").

RECITALS:

This Agreement is based on the following recitals:

A. The Owner intends to develop the Wayne County Consolidated Jail Facility (hereinafter "Project"), which is currently projected to be approximately 700,000 Building Gross Square Feet (BGSF) consisting of a partial basement level with a tunnel connection to the Frank Murphy Justice Center, main support level, and three levels of housing, and located on a 7.175 acre site directly east of the Frank Murphy Justice Center bordered by St. Antoine Street on the west, Gratiot St. on the north, the Chrysler Freeway on the east, and Macomb St. on the south. The Project is more specifically described in Exhibit A attached hereto.

B. The Owner has retained the services of with AECOM/Ghafari as architect to provide certain design services related to the Project (hereinafter referred to as "A/E").

C. The Owner has retained the services of with AECOM/Ghafari as program manager to provide certain programming services related to the Project reporting through the Owner's Representative and providing overall program management services from programming through occupancy (hereinafter referred to as "Program Manager").

D. The Owner has retained Parlovecchio Building, Inc. to serve as "Owner's representative" for the Project (hereinafter referred to as "Owner's Representative").

E. As set forth herein, the Construction Manager At Risk (hereinafter "CMAR") shall: (i) provide consultation to the Owner's Representative on the Project during the design phase; (ii) provide estimates of construction costs; (iii) provide phasing and sequencing studies; (iv) endeavor to keep the design of the Project within established budget limitations; and (v) review the design of the Project with the intent that the most efficient use of materials and methods will be employed to provide quality construction at the least cost and in the shortest possible time.

F. The Owner and CMAR have agreed upon the terms and conditions of the Guaranteed Maximum Price Construction Management Agreement ("Construction Contract"), as well as a basis for determining the Guaranteed Maximum Price ("GMP") for the Project, in the event the Owner elects, in its sole discretion, to engage the CMAR to manage the construction of the Project.

NOW, THEREFORE, the Owner and the CMAR agree as follows:

**ARTICLE 1:
CMAR'S SERVICES**

1.1 General:

Pre-Construction services shall consist of consulting with, advising, assisting and recommending to the Owner, A/E and Owner's Representative all aspects of planning for the construction of the Project so it can be (i) constructed at the lowest possible cost consistent with the Owner's quality requirements as described in the Contract Documents; and (ii) completed and ready for occupancy at the earliest reasonable time. Such services (hereinafter referred to as "Pre-Construction Services") shall include, but are not limited to, the following:

1.1.1 The CMAR shall participate in the development of an Owner Controlled Insurance Program.

1.1.2 The CMAR shall work with the A/E's integrated project delivery process/Building Information Modeling system. The CMAR shall utilize the model to ensure constructability of the design (sequence, clash, detection, and coordination). With the prior written approval of the Owner's Representative, the CMAR shall enter into Cost Plus Guaranteed Maximum Price Contracts with major subcontractors in order to secure the participation of major subcontractors in the integrated project delivery/Building Information Modeling system development.

1.1.3 The CMAR shall review, and provide input on, all plans and specifications being developed by the A/E including, but not limited to architectural, civil engineering, mechanical, electrical and structural drawings and specifications (hereinafter "Drawings" and "Specifications"); make recommendations with respect to such factors affecting constructability, including by example site conditions, foundations, selection of systems and materials, construction feasibility, costs, suggested economies, availability of labor and materials, time requirements for procurement, installation and construction; and verify the completeness and coordination of the drawings and specifications.

1.1.4 The CMAR shall evaluate various systems and materials to assure the maximization of economies in initial costs, life cycle maintenance costs and market availability. If requested by the Owner's Representative, the CMAR shall evaluate alternative construction methods and construction sequencing for the most cost beneficial means of implementing the design requirements. The results of these studies and accompanying recommendations will be presented by the CMAR to the Owner's Representative.

1.1.5 The CMAR shall use electronic data collection and filing systems for the Project (e.g. Project Wise and E-Builder). CMAR shall provide sufficient licenses for each system to enable its team to fully integrate with the Owner's and A/E's systems in place. CMAR's

document control management system must contain direct file interchange capability with Project Wise and E-Builder systems.

2.1.4 Project Entry Agreement. At the Authority's option, the CMAR shall execute and require all Subcontractors and suppliers to require all employees who will work on or in relation to the Project to execute a Project Entry Agreement as attached in Attachment K or such other mutually agreed approach to ensuring labor harmony for the duration of the Project. If Authority elects to require the Project Entry Agreement or other mutually agreed instrument to ensure labor harmony for the duration of the Project, no employee shall be allowed entry on to the Project until he or she, or his or her collective bargaining agent, has executed the Project Entry Agreement which is attached hereto as Attachment K, or such other mutually agreed instrument to ensure labor harmony for the duration of the Project. At the Authority's direction, CMAR shall ensure this provision and Attachment K, or such other mutually agreed instrument to ensure labor harmony for the duration of the Project, is incorporated into every Contract, Subcontract, or other agreement whereby any labor will be performed on, or in relation to this project. CMAR shall be responsible for enforcing this provision.

1.1.7 The CMAR shall provide an analysis of the types and quantity of labor required for the Project and review the availability of labor required for critical phases so construction of the Project may proceed without interference by labor shortages or disputes. In its labor analysis, the CMAR shall take into consideration applicable equal employment opportunity/affirmative action requirements, as well as on-going and scheduled work by the Owner with the objective of eliminating strikes, picketing, handbidding and other similar activities which would disrupt Owner's operations at the Project. The CMAR shall analyze the labor requirements and costs inherent to Owner's early occupancy the Project and shall advise the Owner's Representative of labor situations which would create duplication of effort, disputes, unnecessary or unproductive costs.

1.1.8 The CMAR shall determine the availability of Wayne County-based trades and materials. The CMAR will be required to participate in a minimum of three (3) Community Outreach Forums to be held within ninety days of the date of this Agreement.

1.1.9 The CMAR shall review Drawings and Specifications for the Project with the A/E and Owner's Representative, and make recommendations to the A/E regarding the division and phasing of Work. The CMAR shall consider such factors as type and scope of work, time of performance, availability of labor and materials, community relations, factory versus on-site production costs, size, and other limiting factors. The CMAR shall determine the estimated construction cost and scope of the Work to be included in each division (hereinafter "Estimated Construction Cost"). Construction Documents will be prepared in multiple bid packages as specified by the Owner, A/E and Owner's Representative. The CMAR's participation in the review of Drawings and Specifications may continue beyond the commencement of construction because of the phasing of the construction of the Project.

1.1.10 The CMAR shall review the Drawings and Specifications for the Project to

confirm that they contain provisions for (i) all temporary facilities necessary to enable subcontractors to perform their work, and provisions for all of the job site facilities necessary to manage, inspect and supervise construction, without unnecessary duplication; (ii) safeguards for safety and protection, and otherwise comply with applicable laws, ordinances, rules, regulations, codes or orders of any authority bearing on the performance of the Work to the extent that the CMAR, with the exercise of due care, can reasonably do so; and (iii) all temporary facilities and safeguards to complete the Project.

1.1.11 The CMAR shall be responsible for preparation of a preliminary Estimated Construction Cost for the Project based upon the schematic Drawings developed by the A/E. Thereafter, as the schematic Drawings are developed, the CMAR shall periodically (no less than monthly) revise and update the Estimated Construction Cost as the design process continues and more complete information and specifications are developed. The CMAR shall periodically revise its Estimated Construction Cost and shall notify Owner's Representative and A/E whenever it appears that the Estimated Construction Cost will exceed the Owner's Project Budget, as determined by Owner from time to time. Each and every Estimated Construction Cost shall be prepared by persons who have qualified backgrounds in each of the building trades, mechanical trades and electrical trades. If the Estimated Construction Cost exceeds the Project Budget for the Project, the CMAR, if directed by the Owner's Representative in writing shall work with the A/E and Owner's Representative to develop appropriate recommendations and prepare cost estimates of alternatives that may bring the Estimated Construction Cost within such budget.

1.1.12 In addition to preparation of statements of Estimated Construction Cost, the CMAR shall provide a cost consultation service for the duration of the Pre-Construction Phase and shall prepare preliminary or partial cost estimates as requested in support of the design process as well as cost estimates for all early procurement of equipment and materials; for all building systems components contracts; for all reasonably foreseeable out-of-sequence construction work; and for Bid Packages prior to issuance for bidding, in adequate time to allow for adjustment, if required. The CMAR shall take full responsibility for the rapid development of a cost model from the overall budget costs given; the development of a detailed cost estimate from the agreed model; regular cost checking, estimating, budgeting, and reporting of updated costs; and finally, the breaking down of the cost estimate into the various subcontract proposal packages.

1.1.13 No later than 14 days after the date of this Agreement, the CMAR shall prepare and submit for the A/E and Owner's Representative review and approval a Preliminary Project Schedule using the Critical Path Method (CPM) and using an integrated scheduling system commercially available (Primavera P6 or equivalent) containing direct file interchange capability with the software program used by the A/E. This Preliminary Project Schedule shall contain detailed design, submittal, procurement, and construction activities for the first 90 calendar days of the Project (i.e., including the Pre-Construction Phase). Once approved by the Owner's Representative, the Preliminary Project Schedule shall be attached hereto as Exhibit B. No later than 90 days after the date of this Agreement, the CMAR shall prepare and submit a final project schedule covering the duration of the entire Project (hereinafter "Project Baseline Schedule").

The Project Baseline Schedule shall comply with the requirements of the Construction Contract. Once the Project Baseline Schedule is approved by the Owner's Representative, the Project Baseline Schedule shall be the governing schedule for the duration of the entire Project, and the Project Baseline Schedule may not be changed without the express written agreement of the Owner. The CMAR shall notify the Owner's Representative and A/E whenever it appears the Project will fall behind any approved schedule.

1.1.14 The CMAR shall establish management procedures including proposal and award procedures, reports, administration of the Contract Documents, ARRA compliance and reporting, invoicing, and disbursements.

1.1.15 The CMAR shall prepare a listing of required procurements and their required delivery dates to identify, expedite, and coordinate the ordering and delivery of materials requiring a long lead time. The CMAR shall develop a submittal schedule and submit for Owner's Representative's review. The CMAR shall advise Owner's Representative and A/E as to advance procurement requirements necessary to meet the Preliminary Project Schedule, Complete Project Schedule and/or effect cost savings. If requested by Owner's Representative in writing, the CMAR shall expedite delivery, accept delivery and provide storage, protection, insurance and security on items purchased until such items are installed. AECOM/Ghafari is the designer of this project (the "A/E"). The A/E has agreed with the Authority to provide a design that will keep the project within the \$220,000,000 GMP Cap. The A/E and CMAR are expected to work together to ensure the initial GMP meets the GMP Cap. The CMAR is obligated to participate in the design development process, to provide technical expertise on construction issues and to help ensure constructability and the most cost effective design possible. However, ultimate design responsibility remains with the A/E. This is not a design/build project, although the details for certain systems (such as fire sprinklers) are the responsibility of the CMAR and its Subcontractors.

1.1.16 The CMAR shall prepare and maintain a Project manual to include all budgets, estimates and preliminary schedules.

1.1.17 The CMAR shall develop a detailed and thorough site mobilization/logistics plan, and submit the same to Owner's Representative and A/E no later than 90 days after the date of this Agreement.

1.1.18 The CMAR shall prepare bid packages to be used for the bidding, negotiation and award of subcontracts and purchase orders for the Project. Bid packages shall describe the Work as clearly, accurately and completely as possible with the exercise of due care. The CMAR shall work with the Owners Representative and A/E to develop a unit cost list, which must be completed by all trades subcontractors bidding on the Project.

1.1.19 The CMAR shall conduct pre-bid conferences to familiarize bidders with the bidding documents and management techniques. The CMAR shall assist the A/E and Owner's Representative with bidders' questions and with the issuance of any addenda.

1.1.20 The CMAR shall develop a site-specific safety plan to address the safety of the workers and the methods employed to make certain subcontractors will adhere to the highest level of project safety. The CMAR's safety plan shall also provide adequate means to protect the properties adjacent to the Project. The CMAR shall also develop and maintain a site specific security plan.

1.1.21 The CMAR shall manage bidding procedures including the selection of qualified bidders. The CMAR shall receive and analyze all proposals. The CMAR shall prepare written analysis and comparisons and recommend the trade subcontractors or suppliers. The CMAR shall assist the A/E and Owner's Representative in negotiations with trade subcontractors and/or suppliers.

1.1.22 At the request of the Owner's Representative, the CMAR shall meet with the Owner's Representative and A/E on a regular basis (anticipated to be at least 10 hours of meetings per week), and the CMAR shall prepare minutes of each meeting.

1.1.23 A primary purpose of the CMAR's pre-construction services is to become thoroughly familiar with the Drawings and Specifications, bid packages and other Contract Documents for the Project and, to make reasonable efforts to make sure that they are complete, coordinated, constructible and otherwise fully adequate to take into account all work, labor and material required for the construction of the Project.

1.1.24 The CMAR shall perform such other services reasonably necessary to develop the Project in a timely manner, consistent with the Owner's objectives, and within the Owner's budget.

1.2 CMAR's Personnel:

1.2.1 Pre-Construction Services: Attached hereto as Exhibit D is a personnel chart identifying the CMAR's personnel who are to provide the Pre-Construction Services and the title or job classification of each. No changes or substitutions shall be made in any of the key-personnel named on Exhibit D without the prior written approval of the Owner's Representative, unless such personnel shall leave the employ of the CMAR or any affiliated entity. In connection with any proposed replacement, substitution or reassignment, the CMAR shall submit to the Owner's Representative a detailed justification supported by the qualifications of any proposed replacement.

1.2.2 Construction Services: In the event that the Owner exercises its option to enter into the Construction Contract, the personnel designated on Exhibit D shall have a level of involvement during construction sufficient to effectively convey, translate and apply the information and knowledge gained during the pre-construction period.

1.3 Advance Purchasing:

At the written direction of the Owner's Representative, CMAR shall enter into purchase agreements for the procurement of long lead items identified by the CMAR. In the event (i) the Owner's Representative directs the CMAR to execute such purchase orders, and (ii) the Owner does not exercise its option to enter into the Construction Contract, as provided in Article 3 hereof, such purchase orders shall be assigned to the Owner, or any entity designated by the Owner, the Owner shall reimburse the CMAR for any payments made in respect of such purchase orders and shall indemnify and hold harmless the CMAR from all amounts becoming due except those arising from the CMAR's negligence, breach of this Agreement or willful misconduct.

1.4 Time for Performance:

The CMAR shall provide all services hereunder in most expeditious manner possible, with the CMAR's understanding that time is of the essence in all elements of the Project.

1.4.1 CMAR shall have access to the Project Site on or about December 30, 2011. Any access date within thirty (30) days of that date shall not be considered an Owner Caused Delay and shall be treated as Force Majeure.

1.4.2 Design Development Drawings shall be provided to CMAR on or about October 31, 2011. The issuance of Design Development Drawings within sixty (60) days of these dates shall not be considered an Owner Caused Delay and shall be treated as Force Majeure.

1.4.3 The schedule for Construction Drawings for Early Bid Packages/Early Purchase Packages will be developed in collaboration with the CMAR. Anticipated packages and targeted dates are as follows:

- (a) Omitted
- (b) Caissons/Foundation/Deep Site Utilities: November 30, 2011 -- 14 days
- (c) Building Superstructure & Precast Cell Modules, including design, layout and specifications for all applicable mechanical, electrical, security/detention equipment and other works related to this package, and all other long-lead mechanical/electrical and security/detention systems: January 19, 2012 -- 14 days
- (d) Building Systems (Mechanical/Electrical): March 30, 2012 -- 60 days
- (e) Security Systems/Detention Equipment: March 30, 2012 -- 60 days
- (f) Building Enclosure & Interior Construction: March 30, 2012 -- 60 days

Completion and issuance of the foregoing final drawings by these dates, is dependent upon the CMAR timely collaborating as necessary to allow the completion of design elements within the allowed period. Upon mutual agreement, these drawing packages may be divided into separate packages with separate dates.

The issuance of Construction Drawings within the timeframes referenced adjacent to each item above shall not be considered an Owner Caused Delay and shall be treated as Force Majeure if

the failure to issue the Construction Drawings is the cause of a delay to the critical path of the Project schedule.

ARTICLE 2: CMAR'S COMPENSATION

2.1 Fee for Pre-Construction Services:

In consideration for the Pre-Construction Services to be performed hereunder, the Owner shall pay the CMAR a fee based on the number of hours spent by the CMAR's personnel listed on Exhibit D multiplied by the hourly rates for such personnel set forth on Exhibit D, not to exceed the total amount of \$220,000.00. The not-to-exceed amount for the CMAR's Fee is allocated over the next ten (10) months as indicated in Exhibit E attached hereto. Notwithstanding anything to the contrary herein, regardless of the time required to complete CMAR's services required by this Agreement, the CMAR shall complete all of the services required by this Agreement for a total cost not to exceed \$220,000.00.

If the CMAR is a joint venture or association and received additional evaluation points for Wayne County based business and/or a Targeted Growth Community, the CMAR agrees it shall divide and apportion any payments received from the Owner in the percentages based on the Declared Interests as set forth in CMAR's response to the Owner's Request for Proposal. The CMAR's failure to divide and apportion payments in accordance with its declared interests shall be an Event of Default under this Agreement, and entitle the Owner to terminate this Agreement and result in a forfeiture of CMAR's Bid Security as required by the Request for Proposal.

The parties agree the Owner has the unconditional and unfettered right to audit, in whole or in part, any payments and/or invoices made or received pursuant to this Agreement. The Owner's audit may be during or after the Project, and the CMAR shall cooperate with the Owner in any audit.

2.2 No Reimbursable Expenses:

The Pre-Construction Services fee set forth above is the total compensation payable to the CMAR hereunder and there is no other consideration or reimbursement for travel expenses, living expenses or otherwise.

2.3 Payments:

Payments on account of the CMAR's Pre-Construction Services shall be made monthly upon presentation of the CMAR's statement of services rendered for the previous month. Such statements shall be submitted on the first day of each month and shall be paid within thirty (30) days after approval by the Owner.

ARTICLE 3: OWNER'S OPTION FOR CONSTRUCTION OF THE PROJECT

3.1 Form of Construction Contract:

As evidenced by its execution of the Construction Contract, the CMAR has agreed to the terms and conditions of the Construction Contract and General Conditions for the Project, both of which are attached hereto as Exhibit C (hereinafter the Guaranteed Maximum Price Construction Management Agreement and General Conditions are collectively referred to as the "Construction Contract"). The Construction Contract provides that the CMAR shall be paid a fee (hereinafter referred to as the "CMAR's Direct Costs"), and shall be reimbursed for amounts due under subcontracts and purchase orders, awarded in accordance with the procedure set forth below, not to exceed a guaranteed maximum price (hereinafter referred to as the "Guaranteed Maximum Price").

3.2 Payment for CMAR Direct Costs and Fee:

The term CMAR Direct Costs means and refers to all of the CMAR's general conditions costs on the Project, including without limitation equipment provided for the Project (generators, trash, etc.) temporary utilities, tap fees, permits, staffing, insurance, reimbursable expenses, Payment and Performance Bond Premiums, and all construction field costs related to processing RFI's, field instructions, negotiating and issuing change orders, etc. CMAR Direct Costs shall include all costs over and above direct payments to subcontractors and suppliers and also excludes the cost of self-performed work and Subguard Insurance premiums. The amount of, and payment for, CMAR Direct Costs shall be as set out in the Construction Manager At Risk Guaranteed Maximum Price Contract Agreement. If the CMAR elects to subcontract any portion of the Work required as part of the CMAR's Direct Costs as a Cost of the Work, CMAR shall not seek or obtain reimbursement for the costs paid to such Subcontractors. CMAR Direct Costs shall be paid only under the Construction Manager At Risk Guaranteed Maximum Price Contract Agreement. Payments to CMAR for Pre-construction services are limited to a maximum of \$220,000 as set out herein.

3.3 Guaranteed Maximum Price:

The Guaranteed Maximum Price (hereinafter "GMP") for the Project shall be determined in accordance with the following:

3.3.1 The term GMP means and refers to the Guaranteed Maximum Price which will be developed on the Project as set forth herein.

3.3.2 During the course of the Project, the CMAR shall provide a GMP which includes all costs related to construction of the Project including but not limited to trade contractors, self-performed work, and CMAR Direct Costs. The GMP shall include the \$220,000 paid to CMAR for Pre-construction services.

3.3.3 The GMP shall not include the Owner's separate work for:

3.3.3.1. Site Fencing: Perimeter of the site will be secured by installing Jersey Barriers with chain link above and four double gates; CMAR will assume fence maintenance and be responsible for any changes or expansion to accommodate construction;

3.3.3.2. Utility Relocation: Relocation of 30" high pressure water line and 12" gas line from Mullet Street to Clinton Street; all existing utilities shown on the drawings will be abandoned in place; Authority will provide temporary patching of Clinton Street; CMAR will be responsible for final paving;

3.3.3.3. Earthwork: Bulk excavation and remediation of site to depth recommended by environmental report;

3.3.3.4. Engineered Backfill: Engineered backfill to proposed rough grade of building pad; (Note: Engineered backfill may be deferred to CMAR based on timing of award and start of construction. If this work is to be performed by the CMAR, the maximum amount of the GMP shall be adjusted accordingly.)

3.3.3.5. Caissons if removed from the Work under this Agreement: Owner may elect to enter into a separate Contract with CMAR or with another contractor for the early installation of the Caissons. If this work is performed prior to the agreement on an initial GMP, the maximum amount of the GMP shall be adjusted accordingly.

The maximum GMP set out herein shall be subject to reduction in the event that Owner elects to perform any of the Work through separate contractors, or through a separate agreement with the CMAR for early performance of portions of the work. CMAR shall be prepared to proceed with available early work through separate contract, including but not limited to installation of caissons, if deemed practical and beneficial to the Project in Owner's sole and unfettered discretion.

3.3.4 The GMP shall represent the maximum amount paid to the CMAR for the completion of the Project and shall include, by way of example but not limitation, CMAR Direct Costs, Fee, payments to subcontractors and suppliers, the cost of self-performed work, contingency, etc.

3.3.5 The GMP will be developed in two stages.

3.3.5.1 Initial GMP: The first stage is the "Initial GMP." The Initial GMP shall be developed within thirty (30) days of the completion of Design Development Drawings and under this Pre-Construction Services Agreement. The Initial GMP shall not exceed the Owner's budget of \$220 Million, as adjusted for any scope changes, including without limitation, any portions of the Work started prior to development of the initial GMP and including the \$220,000 to be paid to the CMAR for Pre-construction services. Once the Initial GMP is accepted by the Owner, the CMAR may not seek reimbursement for any amount in excess of the Initial GMP, unless otherwise provided under the

Construction Contract. The Initial GMP must include CMAR's contingency, which shall not exceed 3% of the Initial GMP. Should the CMAR fail to timely submit the Initial GMP in an amount less than \$220,000,000.00, the Owner may exercise its rights to claim against any bid security posted by the CMAR, unless CMAR demonstrates, through, among other things, the use of CMAR's estimate and after reconciliation and collaborative effort with the A/E and the Owner's Representative to bring the Initial GMP within \$220,000,000.00, that the Project, as designed, cannot be constructed for less than \$220,000,000.00. After CMAR submits the Initial GMP to the Owner, the A/E and the Owner's Representative, the Owner shall have thirty (30) days to review the Initial GMP. Should the Owner determine, in its sole discretion, the Initial GMP and/or the CMAR's performance to date are not acceptable, the Pre-Construction Services Agreement shall be terminated by the Owner (this shall be called a "Termination for Unsatisfactory Performance, not constituting a material breach of the Contract Documents" and is neither a termination for cause, nor a termination for convenience), the CMAR's bid security shall be returned, and the CMAR will be reimbursed for documented preconstruction costs as defined in the negotiated CMAR Direct Costs (providing all work products and supporting information for the GMP are tendered to the Owner's Representative), however, in no event shall the CMAR's preconstruction costs exceed \$220,000. The Owner reserves the right to then construct the Project through any delivery system it deems in its best interest. The CMAR agrees that it is precluded from bidding the Project following termination of this Pre-Construction Services Agreement.

3.3.5.2 Final GMP: The second stage is the "Final GMP." If the Owner countersigns the Construction Contract and proceeds to construction, the CMAR will be required to provide a "Final GMP" once ninety percent (90%) of the subcontracts have been issued (i.e. subcontractor buyout). Once the Final GMP is set, the CMAR may not seek reimbursement for any amount in excess of the Final GMP, unless otherwise provided under the Contract Documents.

3.4.1 Except for the major subcontractors contracted under the provisions of Section 1.1.2 above, the CMAR shall solicit separate bids for all of the Work for each separate phase, so as to achieve maximum competition among qualified bidders in order to obtain the most competitive price for the Work. In soliciting bids:

(i) Bid packages shall be distributed to bidders on the Approved Bidder List (as the term is defined below) in sufficient time to enable prospective bidders to prepare and submit competitive bids before the time set for private opening of bids; and

(ii) Except as may be approved in writing, in advance by Owner, neither the CMAR nor any entity affiliated with the CMAR shall submit any bid on the Project.

3.4.2 The CMAR shall furnish to the Owner's Representative, in writing, the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed as bidders for each of the major trades and other principal portions of the Work (the "Proposed Bidders List"). The Proposed Bidders List for each portion of the

Work shall be delivered to the Owner's Representative at least thirty (30) days prior to solicitation of bids for that portion of the Work.

3.4.3 Within fifteen (15) days after the Owner's Representative receives the Proposed Bidders List, the Owner's Representative will advise the CMAR whether the Owner's Representative desires any proposed person or entity to be deleted from or added to the Proposed Bidders List and the Proposed Bidders List shall be revised accordingly (the Proposed Bidders List, as so revised, is hereinafter referred to as the "Approved Bidders List").

3.4.4 Within thirty (30) days after the Construction Drawings and Specifications for the Project have been issued by the A/E for construction and delivered to the CMAR, the CMAR shall obtain bids for the Work from all subcontractors and suppliers on the Approved Bidders List. No allowances shall be included in such bids unless approved in writing by the Owner. Notwithstanding anything to the contrary herein, sections 3.4.2 through 3.4.6 shall not apply to those specific major subcontractors retained pursuant to section 1.1.2 above.

3.4.5 The CMAR shall conduct pre-bid conferences to familiarize bidders with the bidding documents, management techniques, phasing and any special systems, materials, methods or requirements. The Owner's Representative and the A/E shall be invited to all such conferences. The CMAR shall insure that all bidders are familiar with the special requirements of the Construction Contract.

3.4.6 The CMAR shall review all bids with the Owner's Representative and advise the Owner's Representative whether the bids are responsive and acceptable in the context of the total Project requirements and whether the sub-subcontractors and material suppliers proposed by the subcontractors are acceptable.

3.4.7 The CMAR shall cooperate with the Owner's Representative and A/E in reviewing and analyzing any alternates, substitutions or other variations proposed by any bidder.

3.4.8 The CMAR shall conduct pre-award conferences, to be attended by the Owner's Representative and the A/E, for the purpose of confirming the apparent successful bidder's understanding of the Construction Contract, Project, discussing alternates, substitutions or other variations proposed by bidders; clarifying bid prices; or any other purpose designated by the Owner's Representative. The CMAR shall insure that the apparent successful bidder is familiar with the special requirements of the Contract Documents. CMAR shall contract only with Subcontractors with an Experience Modification Rate of 1.00 or less as determined by the National Council on Compensation Insurance. CMAR may not contract with Subcontractors with an experience rate higher than 1.0 without the express written authorization of the Owner's Representative.

3.4.9 The amount of the subcontract or purchase Order shall be revised pursuant to any pre-award conferences, negotiations between the CMAR and any bidder, voluntary reductions or otherwise (the "Subcontract Amount").

3.4.10 The subcontracts and purchase orders for the Project shall be awarded to the bidders recommended by the CMAR and approved by the Owner's Representative, but only on a subcontract or purchase order form as pre-approved by the Owner's Representative in writing.

3.4.11 The sum of all subcontracts and purchase orders awarded under Section 3.4.10 above, plus the CMAR's Direct Costs as defined herein, shall not exceed the Initial GMP.

3.5 Owner's Option to Enter into Construction Contract:

Simultaneously upon executing this Agreement, the CMAR shall execute the Construction Contract. The CMAR acknowledges that the Owner has no obligation to countersign the Construction Contract and that the Owner has the absolute right, at any time, to negotiate with other contractors for the construction of the Project, or to advertise for proposals to construct the Project, on a fixed price, cost plus or any other basis. In the event the Owner declines to enter into a Construction Contract with CMAR and Owner instead advertises new proposals for the Project, the CMAR agrees it is barred from bidding on any and all of the request for proposals subsequently requested by Owner and related to the Project. It is anticipated that the Owner will desire to proceed with the Project in phases as more particularly set forth in the Construction Contract.

3.7 CMAR's Payment and Performance Bonds:

Five days after receiving notice that the Owner intends to execute the Construction Contract, the CMAR shall provide performance and payment bonds each in the penal sum equal to \$220,000,000.00, both on a form required by the Owner and with a licensed commercial surety acceptable to the Owner. Upon receipt of the performance and payment bonds, the Owner will countersign the Construction Contract and return a signed copy to the CMAR. Should the CMAR fail to deliver the performance and payment bonds, the Owner may exercise its rights to claim against any bid security posted by the CMAR.

In order to determine financial strength and reputation of sureties, all companies providing bonds required herein shall be licensed or approved by the Insurance Bureau of the State of Michigan and shall have a financial rating not lower than XII and service rating no lower than A as listed in A.M. Best's Key Rating Guide, current edition. Companies with ratings lower than A: XII will be acceptable only upon written consent of the Owner.

All such insurers shall be from U.S. Treasury list. In the event of a surety delisting, delisting, bankruptcy, insolvency or loss of right to do business in the state where the Project is located, Contractor agrees to replace such surety with one that complies with the Contract Requirements as no increase in cost to the Owner. Such insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions

ARTICLE 4: TERMINATION

4.1 The Owner may, at its sole option, terminate this Agreement at any time in the event of a Default by the CMAR or for the convenience of the Owner upon seven (7) days' written notice of termination to CMAR. A default exists where, after seven (7) days written notice to CMAR from Owner under which the Owner notifies CMAR of CMAR's failure to perform an obligation of this Agreement (hereinafter "Default"), the CMAR fails to cure a Default.

4.2 In the event of termination of this Agreement, the CMAR shall receive, as total compensation for all services performed to the date of termination, the portion of the CMAR's Direct Costs earned under Section 2.1 hereof for the pre-construction phase as follows: payment for the number of hours spent as of the date of termination by the CMAR's personnel listed on Exhibit D multiplied by the hourly rates for such personnel set forth on Exhibit D, less amounts previously paid therefor by the Owner. The CMAR shall not be entitled to lost profits, costs to de-plot or relocate personnel or other consequential damages.

4.3 In exchange for final payment, the CMAR shall furnish the Owner's Representative with a complete waiver and general release of all claims against the Owner in the form required by the Owner.

ARTICLE 5: THE OWNER'S REPRESENTATIVE

The Owner shall designate in writing an Owner's Representative, who shall be Parlovecchio Building, Inc., by Anthony Parlovecchio. **ALL APPROVALS REQUIRED FROM THE OWNER SHALL BE IN WRITING AND SHALL BE INEFFECTIVE AND NON-BINDING UNLESS SIGNED BY THIS INDIVIDUAL OR BY A PERSON OR PERSONS DESIGNATED BY THIS INDIVIDUAL IN WRITING.**

ARTICLE 6: CONFLICT OF INTEREST

6.1 The CMAR hereby represents and warrants that it does not now and will not, during its performance hereof, have any direct or indirect proprietary, or other interest in any patent, system, method, plan or design of construction or in any building procedures, which if used, would involve the payment of royalties, fees, or commissions that will be recommended or used in the drawings, specifications or other documents for the Project, nor in any manufacture or fabrication of any materials to be recommended or specified for use in the Project.

6.2 The CMAR hereby represents and warrants that neither the CMAR nor any firm of which any officer, director, supervisory employee, owner or principal stockholder of the

CMAR is an officer, director, supervisory employee, principal stockholder or owner, or of which the CMAR is a principal stockholder or owner, shall, make or cause to be made any bid on the Project unless otherwise authorized by the Owner's Representative. For purpose of this provision, the term "principal stockholder or owner" means any person or entity holding ten (10%) percent or more of the capital stock or other ownership interest of such corporation or entity in his or its own name or which is held directly or indirectly for his or its account.

6.3 The provisions of this Article 6 shall survive the termination or expiration of this Agreement.

ARTICLE 7: RELATIONSHIP OF TRUST AND CONFIDENCE

7.1 The Owner and CMAR recognize that this Agreement anticipates an arrangement which creates a special relationship of trust and confidence between the respective parties due to the fact that CMAR will be acting in an advisory capacity on behalf of the Owner in providing the services required of this Agreement with the objective of achieving the most efficient use of materials and methods so as to provide quality construction at the lowest reasonable cost and in the shortest reasonable time. The CMAR recognizes that due to the special relationship in which CMAR is acting on behalf of Owner, it is the intention of this Agreement to impose, and of CMAR to accept, the special and additional duties of trust and confidence created hereby. CMAR will exercise the highest standards of good faith and fidelity. Further, CMAR recognizes the obligation to cooperate in all respects with the A/E and Owner's Representative in the planning, design, bidding and construction phases of the Project. CMAR agrees to function as part of the design and construction team consisting of the Owner's Representative, CMAR and A/E for the purpose of facilitating the planning, design and construction of the Project in the most expeditious and least costly manner consistent with the requirements of the Owner.

ARTICLE 8: CONFIDENTIAL INFORMATION

8.1 In order that the CMAR may effectively fulfill its covenants and obligations under this Agreement, it may be necessary or desirable for the Owner to disclose or cause disclosure of confidential and proprietary information to the CMAR pertaining to the Project or the Owner's past, present and future activities. Since it is difficult to separate confidential and proprietary information from that which is not, the CMAR shall instruct its employees, subcontractors and consultants to regard all information gained by each such person, as a result of services rendered hereunder, as information which is confidential and proprietary to the Owner and not to be disclosed to any organization, public or private, or individual without the prior consent of the Owner's Representative except as may be necessary for the performance of the Work. The CMAR shall notify the Owner's Representative of any request for information received by the CMAR or any Subcontractor by any governmental agency or news media and obtain instruction from the Owner's Representative prior to disclosing such information.

8.2 The provisions of this Article 8 shall survive the termination or expiration of this Agreement.

ARTICLE 9: MISCELLANEOUS

9.1 Coordination:

The CMAR shall at all times coordinate its activities with those of the A/E and Owner's Representative to the end that: (i) the A/E and the Owner's Representative will remain fully informed as to all relevant aspects of the Project and its development; (ii) each will be able to efficiently perform its respective duties for the Owner; and (iii) duplication of effort, added expenses and unnecessary delay may be avoided or minimized.

9.2 Severability:

If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of the Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. The recitals set forth above are incorporated herein by reference as if fully restated herein.

9.3 No Joint Venture or Third Party Beneficiaries:

The development of the Project is not, and shall not by virtue of this Agreement be deemed to be, a joint venture of Owner and CMAR, and the CMAR shall not have any rights by virtue of this Agreement in the Project or in the income or profits derived therefrom. This Agreement shall inure solely to the benefit of the parties hereto and their successors and assigns as above provided, and is not intended to and shall not create rights of any nature in favor of any third parties. The CMAR shall not be a third party beneficiary of any contract or agreement between the Owner and the (i) Owner's Representative or (ii) A/E.

9.4 Notices:

Any notice required to be given or which may be given to Owner or Owner's Representative pursuant to this Agreement shall be forwarded in writing by personal delivery or by certified mail, return receipt requested, to the Owner's Representative:

Parlovecchio Building, Inc.
Attn: Anthony Parlovecchio
500 Griswold, Suite 2410
Detroit, MI 48226

With a copy to:

Jeffrey M. Sangster
Kotz, Sangster, Wysocki and Berg, P.C.
400 Renaissance Center, Suite 3400
Detroit, Michigan 48243

Any notice required to be given or which may be given to the CMAR pursuant to the terms of this Agreement shall be forwarded in writing by personal delivery or by certified mail, return receipt requested, to:

Walbridge-dck Joint Venture
Attention: Donald Greenwell, Jr., P.E.
777 Woodard Avenue, Ste. 300
Detroit, MI 48226

with a copy to:

Thomas D. Dyze, Esq.
Walbridge-Aldinger Company
777 Woodard Avenue, Ste. 300
Detroit, MI 48226

9.5 No Waiver:

No repeated failure by the Owner to insist upon strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right, term or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

9.6 Successors and Assigns:

The Owner and the CMAR each binds himself, his successors, assigns and legal representatives to the other party to this Agreement and to the successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The CMAR shall not assign, sublet or transfer his interest in this Agreement without the written consent of the Owner. The CMAR shall not enter into any assignment or subcontract for performing any of the services to be provided under this Agreement without the written approval of the Owner. This Agreement having been made in reliance upon the CMAR's personal qualifications and responsibility, the Owner reserves the right to withhold approval of any proposed subcontract which the Owner reasonably deems would not be in the best interest of the Owner.

9.7 Extent of Agreement:

This Agreement represents the entire and integrated agreement between the Owner and the CMAR and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument by both Owner and CMAR. The recitals stated above are incorporated herein as if fully restated herein, and shall be treated as integral portions of this Agreement.

9.8 Governing Law:

This Agreement shall be governed by the laws of the State of Michigan.

9.9 Dispute Resolution

Notwithstanding anything to the contrary herein, all claims by the CMAR against the Owner that remain unresolved after complying with the claims procedures set out in the General Conditions shall be addressed first through a meeting between the CMAR's highest level officer familiar with the Project and the Owner's Representative's highest level staff member. The A/E shall attend this meeting if desired by the Owner's Representative. Highest level Subcontractor personnel and/or other CMAR personnel shall attend this meeting if requested by the Owner's Representative. Such meeting shall occur no earlier than thirty (30) days after completion of all Preconstruction Services, or termination of this Agreement. At the Owner's option, this meeting may be conducted by a facilitator mutually acceptable to the parties, or, in the event the parties are unable to agree on a facilitator, the parties shall select a facilitator according to the American Arbitration Association Construction Industry Rules for Mediation. The meeting between the CMAR's highest officer and the Owner's Representative's highest level staff member is a condition precedent to the CMAR initiating litigation or demanding arbitration (if elected by the Owner).

In the sole and absolute discretion of the Owner, the Owner may elect to arbitrate claims, and thereafter all claims, disputes and other matters in question arising out of or relating to Contract Documents and/or the Project, shall be decided by arbitration. If elected by the Owner, such arbitration shall be administered by the American Arbitration Association under its Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator(s) shall be final and binding and shall be entered in any Court having jurisdiction thereof. The arbitration shall be conducted in Wayne County, Michigan. The Owner may, but is not required to, require the CMAR to join any of CMAR's subcontractors and/or suppliers to the arbitration, and the CMAR shall insure its contracts with each of its subcontractors and suppliers include the right to join other parties to arbitration. CMAR shall have no right to join subcontractors to the arbitration and subcontractors shall not intervene in the arbitration unless joinder is requested by the Owner.

In the event the Owner does not elect arbitration, any and all disputes shall be settled via litigation in Wayne County, Michigan, it being agreed the CMAR conducts business in Wayne County, Michigan and the CMAR waives any claim that venue is improper in Wayne County, Michigan.

The pendency or possibility of a dispute between the Owner and CMAR shall not interfere with the progress of the Work by CMAR nor shall the CMAR be permitted to suspend the Work, slow the performance of the Work, and/or terminate the Work except as specifically provided for in the Contract Documents.

9.10 Terms

The capitalized terms set forth in this Agreement shall have the same meaning as set forth in the Construction Contract. In case of any conflict or ambiguities between this Agreement and the Construction Contract, the parties agree the Owner shall have the sole and absolute discretion to decide all conflicts and ambiguities, it being agreed the Owner's decision is final and binding on the CMAR.

THE OWNER AND CMAR have executed this Agreement in duplicate, each of which shall be deemed an original thereof, as of day and year first above written.

"CMAR"

By:

Its:

[Signature]
John Raloff Jr.
Chairman & CEO of Managing Member

"OWNER"

By:

Its:

[Signature]
Chairman

Exhibit A

EXHIBIT A – PROJECT DESCRIPTION

The proposed Wayne County Consolidated Jail Facility is currently projected to be in excess of 700,000 Building Gross Square Feet (BGSF) consisting of a partial basement level with a tunnel connection to the Frank Murphy Justice Center, main support level, and three levels of housing. Approximate total capacity is 2,192 beds, and generally includes twelve 64 cell single cell units, eighteen 64 bed dormitory units consisting principally of eight 8-person mini-dorms, and other special housing. The facility is located on a 7.175 acre site directly east of the Frank Murphy Justice Center bordered by St. Antoine Street on the west, Gratiot St. on the north, the Chrysler Freeway on the east, and Macomb St. on the south.

The approximate measurements set out herein or elsewhere in the Contract Documents are estimates based on initial take offs by the A/E and are included for general information purposes only. CMAR is responsible to verify all measurements and shall construct the facility as shown on the drawings with no claim for additional compensation based on existing drawings depicting different square footage(s) than those set forth in the Contract Documents.

Exhibit B

EXHIBIT B
PRELIMINARY PROJECT SCHEDULE

(To Be Developed)

Exhibit C

EXHIBIT C
FORM OF CONSTRUCTION CONTRACT AND GENERAL CONDITIONS FOR THE PROJECT
(Attached at Tab 2)

Exhibit D

EXHIBIT D
CMAR'S PERSONNEL FOR PRE-CONSTRUCTION SERVICES

Job Charge Rate Schedule

			AMOUNT PER HOUR TOTAL RATE	HOURS WORKED	PROPOSED AMOUNT
CONSTRUCTION MANPOWER					
1	Peter Helckjaer	Executive Support	\$0.00 /hr	0	\$0
2	Tom Salopeck	Pre Con Manager	\$49.68 /hr	866	\$43,026
3	Howard Hoover	Chief Estimator	\$97.18 /hr	866	\$84,156
4	Jim Webber	Estimating	\$80.62 /hr	866	\$69,815
5	Bill Skene	BIM Manager	\$77.44 /hr	69	\$5,365
6	Chris Drake	Elec. Estimator	\$81.59 /hr	520	\$42,394
7	Mike Dulimba	Mech. Estimator	\$80.82 /hr	520	\$41,994
8	Bill Lorelli	Project Manager	\$118.86 /hr	520	\$61,760
9	Dave Burton	Project Executive	\$118.74 /hr	260	\$30,848
10	Donald Wahley	General Supt.	\$116.38 /hr	208	\$24,189
11	Gary Minor	QA / QC Manager	\$103.25 /hr	104	\$10,730
12	Nova Consultants	Commissioning Agent	\$108.41 /hr	104	\$11,266
TOTAL CONSTRUCTION MANPOWER					
CONSTRUCTION MANAGEMENT					
1	Don Greenwell Jr.	Executive Committee	\$0.00 /hr	0	\$0
2	John Sebastian	Executive Committee	\$0.00 /hr	0	\$0
3	Dave Burton	Project Executive	\$118.74 /hr	1,039	\$123,392
4	Bill Lorelli	Sr. Project Manager	\$118.86 /hr	5,369	\$638,186
5	Donald Wahley	General Supt.	\$116.38 /hr	5,196	\$604,728
6	Tim Schmidt	Asst. PM	\$70.95 /hr	5,196	\$368,679
7	Jason Thureau	Safety Manager	\$51.83 /hr	5,196	\$269,321
8	Mike Pitts	MEP Supt.	\$59.37 /hr	5,542	\$329,060
9	Scott Dunn	A / E Supt.	\$76.27 /hr	5,542	\$422,731
10	Chuck Strickler	Detention Manager	\$100.25 /hr	5,196	\$520,875
11	TBD	Asst. Supt.	\$53.98 /hr	4,850	\$261,758
12	John Lien	Sr. Project Engr	\$84.38 /hr	5,196	\$438,417
13	Eugenia Preda	Project Engineer	\$39.82 /hr	5,023	\$199,999
14	Mark Michon	Project Engineer	\$46.70 /hr	5,196	\$242,674
15	Bill Skene	BIM Manager	\$77.44 /hr	1,386	\$107,297
16	Andy Villa	Accounting	\$51.19 /hr	2,771	\$141,864
17	TBD	Clerical	\$25.81 /hr	5,196	\$134,122
18	Gary Minor	QA / QC Manager	\$103.25 /hr	5,542	\$572,253
19	TBD	Change Management	\$73.73 /hr	1,108	\$81,729
TOTAL CONSTRUCTION MANAGEMENT					

Exhibit E



Exhibit E

Allocation of Not to Exceed Fee for Pre Construction Services

The CMAR's not to exceed Fee for Pre Construction Services is allocated as follows;

September 1, 2011	\$	27,500
October 1, 2011	\$	27,500
November 1, 2011	\$	27,500
December 1, 2011	\$	27,500
January 1, 2012	\$	27,500
February 1, 2012	\$	27,500
March 1, 2012	\$	27,500
April 1, 2012	\$	27,500
Total	\$	220,000

Exhibit F

EXHIBIT F
PROJECT ENTRY AGREEMENT
(to be developed)

ADDENDUM TO PRE-CONSTRUCTION SERVICES AGREEMENT

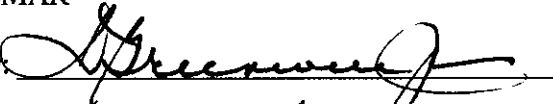
**FOR THE
WAYNE COUNTY CONSOLIDATED JAIL FACILITY
DETROIT, MICHIGAN**

**WAYNE COUNTY BUILDING AUTHORITY
OWNER**

**WALBRIDGE-dck JOINT VENTURE
CONSTRUCTION MANAGER AT RISK**

The parties agree that Article 3.3.5.1 of the Pre-Construction Services Agreement, is hereby amended to reflect that Owner shall have sixty (60) days to review the initial GMP after the CMAR submits the Initial GMP to the Owner, the A/E and the Owner's Representative. All other provisions and requirements set forth in Article 3.3.5.1 and the entirety of the Pre-Construction Services Agreement remain in full force and are not amended, altered, or modified in any manner by the execution of this Addendum.

"CMAR"

By: 

Its: AUTHORIZED REPRESENTATIVE

"OWNER"

By: 

Its: Secretary/Treasurer Wayne County Building Authority

Tab 2

GUARANTEED MAXIMUM PRICE
CONSTRUCTION MANAGEMENT AGREEMENT

I
between

The Wayne County Building Authority

and

Walbridge-dck Joint Venture

[] , 2011

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SCHEDULE OF ATTACHMENTS

Attachment A	Project Description
Attachment B	General Conditions
Attachment C	Intentionally Omitted
Attachment D	Scheduling Specification
Attachment E	Principal Project Personnel
Attachment F	Safety Manual
Attachment G	General Conditions and Fee Matrix
Attachment H	Insurance Provisions
Attachment I	OCIP and Insurance Manual
Attachment J	Contingent Assignment Form
Attachment K	Project Entry Agreement

GUARANTEED MAXIMUM PRICE CONSTRUCTION MANAGEMENT AGREEMENT

This Guaranteed Maximum Price Construction Management Agreement (this "*Agreement*") is made and entered into this ___ day of August 2011 between The WAYNE COUNTY BUILDING AUTHORITY ("Owner"), located at 500 Griswold, 21st Floor, Detroit, Michigan 48226, a component authority of Wayne County, Michigan, and Walbridge-dck Joint Venture ("*Construction Manager At Risk*" or "*CMAR*"), a Michigan Joint Venture located at whose address is 777 Woodward Avenue, Ste. 300, Detroit, MI 48226 for services in connection with the construction project specifically described in Attachment A, hereinafter referred to as the "*Project*."

ARTICLE 1 THE CONSTRUCTION TEAM AND EXTENT OF AGREEMENT

The CMAR accepts the relationship of trust and confidence established between CMAR and the Owner by this Agreement. CMAR covenants with Owner to furnish its best skill and judgment and to cooperate with the A/E in furthering the interests of Owner. CMAR agrees to furnish efficient business administration and superintendence and to use its best efforts to complete the Work of the Project in the most expeditious and economical manner consistent with the best interests of Owner. CMAR shall promptly advise Owner and A/E in writing of any event, happening, or circumstance which may come to CMAR's attention which may adversely affect the quality of Work, or which may delay the scheduled completion of the Project, or which otherwise may be incompatible with the best interests of Owner with respect to the Project.

1.1 The Construction Team. CMAR, the Owner, through its Owner's Representative (Parlovecchio Building, Inc. ("Owner's Representative")) and the Architect/Program Manager (AECOM/Ghafari ("A/E")) (collectively, the "*Construction Team*") shall work cooperatively from the beginning of design through Final Completion.

1.2 Extent of Agreement. The Contract Documents comprise the entire agreement between Owner and CMAR and supersede all prior negotiations, representations, requests for proposals or agreements, this being an entirely integrated agreement. When Drawings and Specifications are complete, they shall be identified by supplement to this Agreement. This Agreement shall not be superseded by any provisions of the documents for construction and may be amended only by written instrument signed by both Owner and CMAR.

1.3 General Conditions. A copy of the General Conditions applicable to this Agreement which shall further set forth the responsibilities of the parties is attached and marked as Attachment B. The General Conditions are incorporated herein by this reference as if fully restated.

1.4 Definitions. Terms used in this Agreement shall have the same meaning as defined in the General Conditions.

ARTICLE 2 CMAR'S RESPONSIBILITIES

The CMAR shall be responsible for performing the following services under this Agreement for the Project as described below. CMAR shall continue to perform the duties and obligations set out in the Preconstruction Services Agreement concurrently with the obligations set out in this Agreement.

2.1 Construction Planning.

2.1.1 Scheduling and Contract Time. The CMAR shall achieve Substantial Completion of the Work no later than June 30, 2014 and Final Completion of the Work no later than August 31, 2014. The CMAR shall prepare and submit to the A/E and Owner's Representative for their review and approval a Project Baseline Schedule that complies with the Scheduling Specification attached as Attachment D, which approval shall be a condition precedent to the Owner's duty to pay CMAR's first application for payment. The Project Baseline Schedule shall include the specified deadlines for Substantial Completion and for Final Completion, as well as any milestones. CMAR shall update the Project Baseline Schedule on a regular basis (at least monthly) as set out in the requirements of the Scheduling Specification, which updates shall conform to the requirements set out in Attachment D.

2.1.2 Materials Planning. Recommend for purchase and expedite the procurement of long-lead items to ensure their delivery by the required dates.

2.1.3 Storage and Laydown Areas. Arrange for delivery, storage, protection, and security of all purchased items and equipment, which are part of the Project until they are incorporated into the Project. Identify, and, if necessary, obtain, areas for unloading and assembly of materials that will be needed on the Project Site.

2.1.4 Pre-construction Conference. Prior to commencing the Work, the CMAR will hold a conference with the Owner's Representative and the A/E to review schedules, to establish procedures for handling shop drawings and other submittals and for processing payment applications, and to establish a working understanding between the parties as to the Work. CMAR will require such subcontractors to attend the preconstruction conference as necessary to ensure the efficient and practical start of Work and to ensure that all Subcontractors are familiar with the Project Baseline Schedule (as updated) and all requirements for their work; and that all necessary parties are enrolled in the OCIP as necessary to allow work to commence on the required date.

2.1.5 Project Entry Agreement. At the Authority's option, the CMAR shall execute and require all Subcontractors and suppliers to require all employees who will work on or in relation to the Project to execute a Project Entry Agreement as attached in Attachment K or such other mutually agreed upon approach to ensuring labor harmony for the duration of the Project. If Authority elects to require the Project Entry Agreement or other mutually agreed upon instrument to ensure labor harmony for the duration of the Project, no employee shall be allowed entry onto the Project until he or she, or his or her collective bargaining agent, has

executed the Project Entry Agreement which is attached hereto as Attachment K, or such other mutually agreed instrument to ensure labor harmony for the duration of the Project. At the Authority's direction, CMAR shall ensure this provision and Attachment K, or such other mutually agreed instrument to ensure labor harmony for the duration of the Project, is incorporated into every Contract, Subcontract, or other agreement whereby any labor will be performed on, or in relation to this project. CMAR shall be responsible for enforcing this provision.

2.2 Construction Management.

2.2.1 Project Control. Assume overall responsibility for managing, supervising, and coordinating all aspects of construction. Control the Work of the Subcontractors and coordinate the Work with the activities and responsibilities of the Owner, A/E, and CMAR to complete the Project in accordance with the Owner's objectives of cost, time, and quality.

2.2.1.1 Maintain a competent full-time staff at the Project Site as necessary to coordinate and provide general direction of the Work and progress of the Work on the Project in a capacity and with the responsibility of a construction manager for the construction phase. The staffing at the Site shall be subject to the review and approval of the Owner's Representative. At a minimum, the CMAR shall maintain full-time, on-Site experienced Senior Project Manager, Project managers, Safety Manager, superintendents, and clerical support. The Principal Project Personnel are identified in Attachment E and shall not be changed or assigned to other projects unless the identified person leaves the employ of CMAR, or the Owner's Representative consents in writing to a change in identified personnel. CMAR shall provide additional staffing if the Owner's Representative reasonably determines that the staffing at the Project Site is inadequate. Unless the Owner's Representative specifically consents in writing, CMAR Project staff shall not be responsible for overseeing self-performed Work on the Project to any extent greater than necessary if a third party subcontractor was performing the Work.

2.1.1.2 Provide on-Site offices, with six (6) separate offices and an open room for meetings to accommodate twelve (12) people, fully furnished for the exclusive use of the Owner, Owner's Representative, Program Manager, and the A/E. Provide utilities, phones, fax lines, and T-1 connections. Provide Owner's Representative, A/E, and Program Manager, access to the Work in preparation and progress wherever located.

2.2.1.3 Interface with base building systems and ensure compliance with all building standards and requirements. Adhere to all building rules, regulations, and codes.

2.2.1.4 Establish on-Site organization and lines of authority in order to efficiently carry out the overall plans of the Construction Team.

2.2.1.5 Establish procedures for coordination among the Owner, Owner's Representative, A/E, Subcontractors, and CMAR with respect to all aspects of the Project and implement such procedures.

2.2.1.6 Schedule and conduct weekly meetings at which Subcontractors, Owner's Representative, A/E, and CMAR can discuss all aspects of the Project, including by example, progress, procedures, procurement, RFIs, and scheduling. Prepare and promptly distribute meeting minutes to Owner's Representative, A/E, Program Manager, and Subcontractors. Update and submit RFI and submittal logs to A/E, Program Manager, and Owner's Representative on a weekly basis.

2.2.1.7 Schedule the Work in advance of actual construction operations to assure that trade Subcontractors are utilized to their fullest extent. Develop a CPM based Project Baseline Schedule in accordance with the Preconstruction Services Agreement and the Scheduling Specification attached as Attachment D and provide the A/E and Owner's Representative with a regular update to the Project Baseline Schedule (at least monthly) reflecting actual progress to date as required in Attachment D.

2.2.1.8 Provide regular monitoring of the Project Baseline Schedule (as updated) as construction progresses, identify potential variances between scheduled and probable Substantial and Final Completion dates, review the schedule for Work not started or incomplete and recommend to the Owner's Representative and A/E, Subcontractors, and sub-subcontractors adjustments in the Project Baseline Schedule (as updated) to meet the Substantial and Final Completion. Provide summary reports of such monitoring and document all changes in the Project Baseline Schedule (as updated) to be executed as required and the rate of expected progress toward the completion dates and furnish copies thereof to Owner's Representative and A/E as requested. Should the rate of progress change, due to the fault of CMAR or the failure of the CMAR (including any Subcontractors, sub-subcontractors, or materials suppliers) to diligently perform CMAR's obligations under this agreement, the CMAR shall take additional steps required for timely completion of the Work at no additional cost to the Owner, on the scheduled date unless a time extension is authorized by Owner as set out in the Contract Documents. If the CMAR cannot maintain the Project Baseline Schedule (as updated) due to elements beyond the CMAR's control, the CMAR shall submit a request for a schedule adjustment in accordance with the Contract Documents.

2.2.1.9 Determine the adequacy of the CMAR's personnel, equipment, and agents and CMAR's Subcontractors' personnel, agents, and equipment and the availability of materials and supplies to meet the Project Baseline Schedule (as updated). Recommend courses of action to the Owner's Representative when requirements of a subcontract are not being met, but assume responsibility for adherence and performance of subcontracts.

2.2.1.10 Provide the appropriate level of cleaning as required by the Contract Documents and approved by the Owner's Representative.

2.2.2 Physical Construction. Provide all supervision, labor, materials, construction equipment, tools, and subcontract items which are necessary for the completion of the Work, except as otherwise permitted by this Subparagraph, through Subcontractors. To the extent that the CMAR performs any Work with CMAR's own forces, CMAR shall, with respect to such Work, bid on such Work in accordance with this Agreement and be bound to the extent not inconsistent with this Agreement by the procedures and the obligations with respect to such

Work as may govern the Subcontractors under Contractor. No Work shall be performed by the CMAR without the express written consent of the Owner's Representative except for making provision for temporary facilities and general conditions, such as, but not limited to, cleaning, heat, light, power, water, waste and material disposal, and offices.

2.2.2.1 Rigorously supervise, oversee, and inspect the Work daily to assure that the Owner's objectives are being carried out in accordance with the working drawings, Specifications, all other Contract Documents and local laws, ordinances, and regulations. Keep the premises and surrounding area free from accumulation of waste materials arising from the Project.

2.2.2.2 Prepare and maintain a Quality Control Plan (QCP) based on Contract requirements to address all quantitative performance/Specification requirements, installed conditions, and operating characteristics to ensure compliance with the Contract Documents. The QCP is intended to document those inspections/tests necessary to assure that only first quality workmanship and new first quality materials are being used in all aspects of construction for the duration of the entire Project.

2.2.3 Project Documents. Maintain daily records covering manpower, Work in progress, accidents, and field observations, as well as providing, upon request, any reporting required by applicable codes and regulations and ARRA requirements.

2.2.3.1 Progress Reports. Progress Reports shall be prepared and submitted monthly to the A/E and Owner's Representative. The report shall indicate at a minimum:

- (A) Meetings held with a summary of the items (reference meeting minutes);
- (B) Current status of each subcontract;
- (C) Current status of the Project Baseline Schedule (as updated) both short-term and completion;
- (D) Work accomplished during this period;
- (E) Schedule activities for the next two (2) weeks;
- (F) Status of field clarification or Requests for Information;
- (G) Status of outstanding Change Orders;
- (H) Quality control inspections, tests and deficiencies;
- (I) Problems and/or decisions required with date needed;
- (J) Project safety status with individual reports of any deficiencies and/or accidents; and
- (K) Other pertinent information so as to keep the Owner's Representative informed of the Project status.

Aspects of one or more of the foregoing may be requested by Owner and shall be supplied by CMAR on a more frequent basis, including on a weekly basis, provided that reasonable notice of such request is provided by Owner's Representative or other agent of Owner.

2.2.3.2 Daily Reports. Daily Reports shall be provided by each Subcontractor to the CMAR and by the CMAR for self performed Work. These shall indicate total manpower by trade on the Site and the items of Work accomplished that is clearly apparent by the level of detail provided. "Working on fourth floor" is an example of what is not acceptable. Equipment on Site and material deliveries shall be recorded. Work performed on change and/or claim items should be isolated and reported separately.

2.2.3.3 Summary Status Report. The CMAR shall prepare monthly, for submittal to the A/E and the Owner's Representative, ten (10) copies of an overall Summary Status Report to indicate overall schedule and cost status by Subcontractor or such other number as Owner's Representative shall reasonably direct which report shall be in the office of the Owner's Representative, as directed by Owner's Representative on or before the 5th day of each calendar month. The format of such report shall be as reasonably requested by Owner's Representative from time to time. The cost summary for each subcontract shall isolate subcontract costs, Change Orders issued, anticipated Change Orders, and any claims made. The Summary Status Report shall also include:

- (A) A total cost summary for all items of the Work shall be provided with committed costs to date, anticipated costs to complete and the balance of the established contingency fund included in the Work;
- (B) A listing of decisions made during the month and decisions required to be made;
- (C) A simplified Baseline Schedule (as updated) to indicate Work completed and anticipated completion of the milestones, substantial completion and final completion; and
- (D) Any problems encountered and their resolution and/or recommendations.

2.2.3.4 Record Documents. Maintain at the Project Site, on a current basis, a record copy of all contracts, drawings, Specifications, addenda, Change Orders, and other modifications, in good order and marked to record all changes made during construction, shop drawings, samples, product data, and all related documents and revisions. This is essential in order to enable a complete set of "As-Built" documents to be prepared at the end of the Project.

2.2.3.5 Required Compliance Documents. Maintain paperwork, including logs and reports as required by all applicable federal, state, and local government agencies (e.g., Wayne County, City of Detroit, State of Michigan, etc.).

2.2.3.6 Owner Supplied Forms. At the request of Owner's Representative, CMAR and all Subcontractors shall use and completely fill out all forms supplied by Owner for record keeping and management/administration of the Project. Such forms may include, but are not limited to daily report forms, payment application forms, release

forms, Notice of Claim forms. Use of Owners forms is optional to Owner and mandatory for CMAR and Subcontractors, if requested by Owner. Owner shall have no obligation to supply copies of the forms for CMAR's use. The format or pre-printed content of any forms supplied by Owner shall not be deemed to create a change or modification of the contract documents.

2.2.4 Cost Control. Develop and monitor an effective system of cost control for the Work. Incorporate approved changes as they occur, and develop cash flow reports and forecasts as needed. Identify variances between actual and budgeted or estimated costs and advise Owner's Representative and A/E whenever projected cost exceeds budgets or estimates. Any variances that become reasonably foreseeable or known to the CMAR shall be explained to Owner's Representative as to cause and recommendations for correction shall be provided to Owner's Representative.

2.2.4.1 Maintain cost accounting records on authorized Work performed under unit costs, actual costs for labor and material, or other basis requiring accounting records. Afford the Owner's Representative access to these records and preserve them for the Owner's Representative until Final Completion of the Project at which time they shall be delivered to the Owner's Representative, or if not desired by the Owner's Representative, retained for a period of six (6) years. Such records shall be in detail as required by Owner's Representative.

2.2.4.2 Ensure compliance with the Davis-Bacon Act, requiring the Federal Prevailing Wage Rates be paid to all workers employed to perform the Work. Assure that accurate payroll records are kept by the CMAR and each Subcontractor and/or supplier. Prepare and obtain certified payroll reports from all persons or entities that perform Work on or for the Project.

2.2.5 Change Orders. Develop and implement a system for the preparation, review, and processing of Change Orders as set out in the Contract Documents. Recommend necessary or desirable changes to the Owner's Representative and the A/E, review requests for changes, submit recommendations to the Owner's Representative and the A/E, and negotiate Change Orders with Subcontractors and suppliers for approval by the Owner's Representative. The CMAR shall review all proposed change order requests from Subcontractors for accuracy, and the CMAR shall affirmatively represent to the Owner's Representative and A/E that the Subcontractor's change order request is accurate and correct. Execute necessary Change Orders with Subcontractors and submit requests for any Change Orders that require an increase in the GMP in accordance with the provisions of the Contract Documents.

2.2.6 Payments to Subcontractors. Develop and implement a procedure for the review, processing, and payment of applications by Subcontractors for progress and final payments, subject to the approval of Owner's Representative and A/E. Manage the process for Change Orders resulting from, but not limited to, field conditions and changes to the scope of Work as defined by Project or Contract Documents. These procedures shall require CMAR to collect affidavits and releases for each monthly Subcontractor payment application which will be delivered to the Owner's Representative prior to the next month's application for payment, including conditional final waivers and releases at the end of the Work. Signed copies of all subcontracts, purchase orders, and modifications or changes to them shall be provided to the

Owner's Representative prior to any payment by Owner on any item under such agreements. Update and submit Change Order logs to the A/E and Owner's Representative on a weekly basis. On a monthly basis, provide Change Order logs showing all Change Orders (approved, pending, and potential). Receive all trade Subcontractors', vendors' and suppliers' applications for payment, review and adjust same and issue an application for payment to the Owner's Representative and Program Manager for review and approval. Develop cash flow reports and forecasts (with a 3-month look ahead) for the Work, comparing and forecasting actual expenditures verses anticipated expenditures. On a monthly basis, submit cash flow reports and forecasts to the Owner's Representative, A/E, and Program Manager.

2.2.7 Permits and Fees. The CMAR shall be responsible to ensure general building permits are obtained on a timely basis. The CMAR is responsible for obtaining the other special permits for permanent improvements, including permits for inspection or temporary facilities required to be obtained by the various Subcontractors as per the Contract Documents. The CMAR shall obtain approvals from all the authorities having jurisdiction over the Work. The CMAR shall comply with all local codes and ordinances as well as building standards and requirements as to methods and means of construction and safety. It is understood, however, that CMAR shall not be responsible for obtaining any environmental permits including, but not by way of limitation, those required under the Clean Air Act or the Clean Water Act, any water management district permits, any zoning permits, or other permits pertaining to Site use.

2.2.8 Owner's Consultants. If required, assist the Owner in selecting and retaining professional services of a surveyor, testing laboratories, and special consultants, and coordinate these services.

2.2.9 Inspection. Inspect the Work of Subcontractors for Defects and deficiencies in the Work and assure the Work is in conformity with the Contract Documents.

2.2.10 Safety. The CMAR shall be responsible for establishing and enforcing all guidelines for a safety program, which shall govern the entire Project. In this capacity the CMAR shall review the safety programs of each of the Subcontractors and make appropriate recommendations. In making such recommendations and carrying out such reviews, CMAR shall check safety precautions and programs in connection with the Project. The performance of such services by the CMAR shall not relieve the Subcontractors of their responsibilities for the safety of persons and property, and for compliance with all federal, state, and local statutes, and rules, regulations, and orders applicable to the conduct of the Work. In addition, the CMAR shall ensure compliance with the Safety Guidelines set out in the Contract documents including, but not limited to the minimum safety guidelines provided in the Safety Manual which is attached as Attachment F and incorporated herein, The General Conditions (Attachment B), and this Agreement. The safety provisions of the Contract Documents shall be considered minimum guidelines which must be followed by CMAR and all persons or entities working on the Project. CMAR remains responsible for establishing and enforcing a complete safety program to comply with all laws and regulations and to ensure a safe and secure Site and Project. Compliance with the safety guidelines shall not relieve the CMAR or Subcontractors of their responsibilities for the safety of persons and property, and for compliance with all federal, state, and local statutes,

and rules, regulations, and orders applicable to the conduct of the Work.

2.2.11 Document Interpretation. Refer to the A/E all questions for interpretation of the documents prepared by the A/E.

2.2.12 Shop Drawings and Samples. In collaboration with the A/E, establish and implement procedures for processing shop drawings, material samples, mock-ups, and off-Site testing and inspections as defined by the Contract Documents.

2.2.13 Safety Security and Fire Protection. Take all steps necessary to maintain a secure and safe Project Site. Secure the Site both during and after working hours. Accept full responsibility for the Project Site including its security, safety, and fire protection until Substantial Completion of the Work and turnover to, and acceptance by Owner, of the Work.

2.2.14 Compliance with Laws and Regulations. Be responsible for and ensure that the manner of performance of all Work to be performed and all activities to be conducted at the Project Site are conducted in a manner that is in accordance with all applicable federal, state, and local laws and regulations pertaining to construction means and methods as opposed to design, including but not limited to those of fire safety, worker safety, environmental health, and safety, and labor and employment.

2.2.15 INTENTIONALLY OMITTED.

2.2.16 Completion. Prepare Site for Substantial Completion and staged occupancy. Provide all required testing, balancing, and start up of utilities, operational systems, and equipment, as well as all other necessary commissioning. Take responsibility for comprehensive tie-in of building systems, including emergency power systems, and prepare a program for Substantial Completion and staged occupancy.

2.2.16.1 Punch Lists. Assist the A/E in the determination of Completion of the Work or designated portions thereof and assist the A/E in preparing a list of incomplete or unsatisfactory items and a schedule for their completion. Ensure completion of all punch list Work. Update the close-out checklist weekly and present for review at weekly Owner Project meetings. As a condition of Substantial Completion and acceptance, CMAR shall certify that all remaining Work ("punch list" type Work) with the exception of long lead items (approved by Owner's Representative) will be completed within thirty (30) consecutive calendar days or as mutually agreed upon following the Date of Substantial Completion. Retainage is to be held until Final Completion is achieved.

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

2.2.16.3 Turnover and Training. The CMAR shall secure and transmit to the Owner's Representative, required closeout reports, guarantees, "As-Built" drawings and data, affidavits, releases, bonds, and waivers. Turn over to the Owner all keys, manuals, record

drawings, and maintenance stocks. CMAR will obtain all final inspections from the governing jurisdictions to provide for a final Certificate of Occupancy and other licenses required by law to operate the completed Work. CMAR shall turn over all documents and manuals of any manufacturers or suppliers and provide to Owner, organized training pursuant to a program to be agreed to by Owner for providing Owner personnel with adequate information to allow Owner to safely and efficiently maintain and operate all systems of the Work. Submit all closeout documents and signoffs as directed by Program Manager and Owner's Representative and required in accordance with the Contract Documents, NO LATER THAN one (1) month after move in.

2.2.17 Warranty. The CMAR shall prepare and execute a written guarantee and warranty applicable to all phases of the Work in accordance with the Contract Documents that all materials and equipment included in such Work are new, unless otherwise specified, and that such Work is of good quality, free from improper workmanship and Defective materials, and in conformance with the drawings and Specifications. With respect to the same Work, the CMAR further agrees to correct all Work Defective in material and/or workmanship for a period of one (1) year from the Date of Final Completion. The cost of such warranted Defective Work or the effort to require or direct the Subcontractors to perform shall not be charged to the Cost of the Work. All warranties obtained by the CMAR from Subcontractors, material suppliers, or manufacturers shall be extended directly to the Owner for the full extent of their terms as contained in the trade sections of the Specifications. The CMAR shall collect and deliver to the Owner's Representative any specific written warranties given by others. No warranty provided by CMAR shall limit, replace, or reduce warranties implied by law, provided by manufacturers or required elsewhere in the Contract Documents. The CMAR shall conduct a warranty walk-through at six (6) month and twelve (12) month post-Substantial Completion. The CMAR shall repair, replace, or otherwise correct all Work not conforming to these requirements, including substitutions not properly approved and authorized, upon request by the Owner or Owner's Representative.

2.2.18 Labor Harmony. The CMAR shall at all times use judgment as an experienced contractor to adopt and implement policies and practices designed to avoid Work stoppages, slow downs, disputes, or strikes where reasonably possible and practical under the circumstances to maintain Project-wide labor harmony.

2.2.19 Coordination. Coordinate with trade Subcontractors, the delivery, installation, and connections for any Owner-purchased items. Coordinate with other Owner contractors to permit the efficient delivery, installation, wiring, start-up, and testing of their Work.

2.2.20 Surveys. Provide all necessary surveys not specifically provided by Owner.

ARTICLE 3 OWNER'S RESPONSIBILITIES

3.1 The Owner shall provide full information regarding Owner's requirements for the Project.

3.2 The Owner's Representative for the Project shall have no authority to increase the GMP or to extend the date of Substantial Completion both of which shall be the sole responsibility of the Owner. However, Owner's Representative shall have the authority to execute Change Orders that do not extend the date of Substantial Completion or increase the GMP. Such changes may be effected by written order.

3.3 The Owner shall retain an A/E for design and to prepare construction documents for the Project.

3.4 Baseline surveys of existing conditions or other information describing the physical characteristics, legal limits, and known utility locations, above and below grade, for the Site of the Project are included in Contract Documents. Any additional surveys shall be provided by CMAR.

3.5 The CMAR shall establish the location and elevation of benchmarks and base lines for locating the building in accordance with the drawings and Specifications. The CMAR shall protect and preserve established benchmarks and shall make no changes in locations without the written approval of the Owner's Representative. Established reference points which may be lost, covered, destroyed, or disturbed in the course of performance of the Work under the Contract Documents or which require shifting because of necessary changes or locations shall, subject to approval of the Owner's Representative, be replaced and accurately located or relocated (as appropriate) and at the CMAR's expense. If the original benchmarks are lost, covered, destroyed, or disturbed, the Owner's Representative will re-establish these reference points unless caused by the errors and/or omissions of the CMAR. CMAR shall confirm the location of all utilities before proceeding with cleaning, excavation, or construction.

3.5 The Owner shall secure and pay for necessary easements and approvals required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities, including any environmental permits that may be required under any state or federal law.

3.6 The Owner shall furnish such legal services as may be necessary for providing the items set forth in Paragraph 3.5, and such auditing services as Owner may require.

3.7 The CMAR will be furnished without charge, one (1) set of reproducible copies of the drawings and all Specifications necessary for the execution of the Work.

3.8 CMAR shall have access to the Project Site on or about December 30, 2011. Any start date within 30 days of that date shall not be considered an Owner Caused Delay and shall be treated as Force Majeure.

3.9 Design Development Drawings shall be provided to CMAR on or about October 31, 2011. The issuance of Design Development Drawings within 60 days of that date shall not be considered an Owner Caused Delay and shall be treated as Force Majeure.

3.10 The schedule for Construction Drawings for Early Bid Packages/Early Purchase Packages will be developed in collaboration with the CMAR. Anticipated packages and targeted dates are as follows:

- (a) Omitted
- (b) Caissons/Foundation/Deep Site Utilities: November 30, 2011 – 14 days
- (c) Building Superstructure & Precast Cell Modules, including design, layout and specifications for all applicable mechanical, electrical, security/detention equipment and other works related to this package, and all other long-lead mechanical/electrical and security/detention systems: January 19, 2012 – 14 days
- (d) Building Systems (Mechanical/Electrical): March 30, 2012 -- 60 days
- (e) Security Systems/Detention Equipment: March 30, 2012 – 60 days
- (f) Building Enclosure & Interior Construction: March 30, 2012 -- 60 days

Completion and issuance of the foregoing final drawings by these dates, is dependent upon the CMAR timely collaborating as necessary to allow the completion of design elements within the allowed period. Upon mutual agreement, these drawing packages may be divided into separate packages with separate dates.

The issuance of Construction Drawings within the timeframes referenced adjacent to each item above shall not be considered an Owner Caused Delay and shall be treated as Force Majeure if the failure to issue the Construction Drawings is the cause of a delay to the critical path of the Project schedule.

ARTICLE 4 SUBCONTRACTS

4.1 With the exception of portions of the Work the CMAR performs with its own forces, all other portions of the Work shall be performed under subcontracts between CMAR and the Subcontractors. Subcontractors shall be identified and retained as set out in the Preconstruction Services Agreement. If a replacement Subcontractor is necessary, such Subcontractor shall be selected as agreed upon in writing by the Owner's Representative and CMAR. The participation of the Owner's Representative in that selection process shall not relieve the CMAR of its responsibility for the performance of the Subcontractor. All subcontracts between the CMAR and any Subcontractor shall provide for the contingent assignment of said subcontract in accordance with the terms and conditions of the Contract Documents, and on the form required by the Owner, which is included herewith as Attachment J.

4.2 The form of the subcontracts including the General and Supplemental Conditions shall be on CMAR's standard forms, which shall be subject to the prior written approval of Owner's Representative. CMAR shall contract only with subcontractors with an Experience Modification Rate of 1.00 or less as determined by National Council on Compensation Insurance. CMAR may not contract with Subcontractors with an experience rate higher than 1.0 without the express written authorization of the Owner's Representative.

4.3 The CMAR shall be responsible to the Owner for the acts and omissions of CMAR's agents and employees, Subcontractors performing Work under a subcontract with the CMAR, material suppliers providing materials or equipment to the CMAR, and CMAR's Subcontractors' subcontractors, material suppliers, agents, and employees, regardless of any participation of the Owner or Owner's Representative in the selection of same.

4.4 The Owner's Representative shall communicate with the Subcontractors and sub-subcontractors through the CMAR.

ARTICLE 5 GUARANTEED MAXIMUM PRICE

5.1 The Guaranteed Maximum Price.

5.1.1 The Initial GMP for this Agreement is \$_____. (to be determined at a later date, but shall not exceed \$220,000,000) The GMP shall include the \$220,000 paid to the CMAR for Pre-construction services. The CMAR will provide a final GMP ("GMP") once ninety percent (90%) of the subcontracts have been issued (i.e. Subcontractor buyout). The GMP shall not exceed the Initial GMP except to the extent of any scope changes requested in writing by the Owner. Once the GMP is set, the CMAR may not seek reimbursement for any amount in excess of the GMP, unless otherwise specifically provided under the Contract Documents.

5.1.2 Such GMP will be definitive and certain in all material respects subject only to changes in scope of Work or other changes provided for in accordance with this Agreement. CMAR acknowledges that failure to timely present a mutually acceptable GMP to Owner's Representative, unless extended in a written agreement of Owner and CMAR, may, at Owner's election, result in Owner letting this Project to other entities and Owner's termination of this Agreement as a Without Cause Termination.

5.1.3 The GMP will include the Cost of the Work as set forth in Article 8. The GMP will be subject to modification for changes in the Project as provided in the Contract Documents and for additional costs arising from delays caused by the Owner and/or the A/E as set out in the Contract Documents.

5.1.4 The CMAR and Owner agree the Owner may, in its sole and absolute discretion, elect to convert the GMP to a lump-sum amount upon written notice from the Owner to the CMAR. The CMAR agrees to take all actions necessary and as directed

by the Owner to convert the GMP to a lump-sum amount.

5.2 Contingency. The GMP shall include a separate contingency line item ("Contingency") in an amount of not more than 3% of the GMP. The Contingency is established for events such as missed interfaces between different Subcontractors' scopes of Work and missed scope items such as caulking and trim, but only to the extent such items were unanticipated and not the result of the negligence of the CMAR. Further, no part of the Contingency may be used by the CMAR without first submitting to the Owner's Representative a written request for a specific amount and justification for its use, and without receiving the Owner's Representative's written approval. When the Work is seventy-five percent (75%) complete, thirty-three percent (33 %) of the unused, unallocated and/or unapproved Contingency shall be returned or credited to the Owner. At Substantial Completion, any unused, unallocated and/or unapproved portions of the Contingency shall be returned to the Owner and, thereafter, become the sole and exclusive property of the Owner. All such unused Contingency shall also cause a corresponding reduction in the GMP. If unresolved disputes arise regarding contingency that exceed \$1 Million in aggregate, either party can demand binding arbitration before a single arbitrator mutually agreed upon, or if the parties are unable to agree, selected through the American Arbitration Association Expedited Procedures. The goal is to complete arbitration on this issue as quickly as possible. This provision is an exception to, and does not modify or otherwise impact the claims and dispute resolution provisions of the Contract Documents.

5.3 Taxes. The GMP will only include those applicable taxes in the Cost of the Work and other expenses of the Work which are legally enacted at the time the GMP is established. CMAR shall apply for all available tax exemptions or credits. The GMP will be reasonably adjusted by mutual agreement of the parties for any increase in taxes legally enacted after the GMP is established.

ARTICLE 6 VALUE ENGINEERING AND SHARED SAVINGS

6.1 Any savings on the initial amount of \$220,000,000, excluding scope reductions by the Owner and unspent Contingency, shall be allocated as set forth below as part of an incentive compensation plan with all unallocated amounts being retained by the Owner. If the City of Detroit portion of the project is removed from the project, the value of the scope reduction for purposes of determining savings shall be deemed to be \$_____, and this amount shall be deducted from the initial amount set out above. All other deductions resulting from scope changes shall be determined based on the actual cost reduction established by agreement of the parties, or through the claim/dispute resolution procedures set out in the Contract Documents. Provided all criteria are met, and subject to the reduction provided for in Section 6.2, as well as any reduction in scope, any such savings shall be distributed as follows:

6.1.1 For the first \$12,000,000 in savings on the initial amount of \$220,000,000

(\$220,000,000 - \$208,000,000):

- i. 14% to the CMAR
- ii. 2% to the Owner's Representative.
- iii. 2% to the Program Manager
- iv. 2% to the A/E

6.1.2 For the next \$8,000,000 in savings on the amount of \$208,000,000
(\$207,999,999 - \$200,000,000):

- i. 24.5% to the CMAR
- ii. 3.5% to the Owner's Representative
- iii. 3.5% to the Program Manager
- iv. 3.5% to the A/E

6.1.3 For any additional savings below the amount of \$200,000,000
(\$199,999,999 - \$0):

- i. 35% to the CMAR
- ii. 5% to the Owner's Representative
- iii. 5% to the Program Manager
- iv. 5% to the A/E

6.2. Notwithstanding the foregoing, in the event Substantial Completion is not achieved by the originally scheduled Substantial Completion Date, which for purposes of this subparagraph shall only be deemed to be extended for the actions or omissions of the Owner, the shared savings payable to the CMAR, Owner's Representative, Program Manager and A/E shall each be reduced and distributed as follows:

6.2.1 For the first \$12,000,000 in savings below the initial amount of \$220,000,000 (\$220,000,000 - \$208,000,000):

- i. 7% to the CMAR
- ii. 1% to the Owner's Representative.
- iii. 1% to the Program Manager
- iv. 1% to the A/E

6.2.2 For the next \$8,000,000 in savings below the amount of \$208,000,000
(\$207,999,999 - \$200,000,000):

- i. 12.75% to the CMAR
- ii. 1.75% to the Owner's Representative
- iii. 1.75% to the Program Manager

iv. 1.75% to the A/E

6.2.3 For any additional savings below the amount of \$200,000,000:
(\$199,999,999 - \$0):

- i. 17.5% to the CMAR
- ii. 2.5% to the Owner's Representative
- iii. 2.5% to the Program Manager
- iv. 2.5% to the A/E

6.3 Notwithstanding the foregoing, in the event Substantial Completion is not achieved within ninety (90) calendar days of the originally scheduled Substantial Completion Date, which for purposes of this subparagraph shall only be deemed to be extended for the actions or omissions of the Owner, the Gross Savings payable to the CMAR, Owner's Representative, Program Manager, and A/E shall each be eliminated and one hundred percent (100%) shall be retained by the Owner.

6.4 Notwithstanding the foregoing, in the event the CMAR, Owner's Representative, Program Manager, or A/E has caused a material breach under the terms of the Construction Documents (with the exception of late delivery of the Work which is specifically provided for above), only such specific entity and/or entities shall not be entitled to receive any portion of the Gross Savings and such forfeited portion of Gross Savings shall be retained by the Owner.

ARTICLE 7

CMAR'S DIRECT COSTS AND FEE

7.1 For the performance of the Construction Management services required under this Agreement, Owner agrees to pay as sole compensation to CMAR in current funds for CMAR's services for Direct Costs and Fee as follows:

7.1.1 CMAR's Direct Costs The CMAR Direct Costs shall be paid based on actual costs incurred with no element of profit or overhead included. All overhead and profit is contained in CMAR's fee. CMAR Direct Costs are subject to audit to verify accuracy, including that no element of profit or overhead is included in the submitted Direct Costs. Actual costs for staff shall be determined based on the actual base hourly or salaried W-2 wage rate multiplied by a factor of 1.475. The Original CMAR Direct Costs are set out in Attachment G (Original CMAR Direct Costs"). The Original CMAR Direct Costs when added to the CMAR Fee set out below, shall be performed by the CMAR at a total cost not to exceed 7.5% of the \$220,000,000 GMP Cap which shall be \$16,500,000. The total of all CMAR Direct Costs shall not exceed \$_____ for the entire Project which figure shall be determined by mutual agreement of CMAR and Owner's Representative based on CMAR's budget and staffing plan. The maximum amount of CMAR Direct Costs shall not be adjusted for changes in the scope of work or in the GMP, except for Owner Caused Delay as defined in

the Contract Documents, and increased charges for bond premiums resulting from changes in the scope of work but only to the extent the GMP exceeds \$220,000,000.00. Direct Costs refers to all of the CMAR's general conditions costs on the Project, including equipment provided for the Project (lifts, cranes, trash, etc.) temporary utilities, profits, preconstruction services, tap fees, permits, staffing, insurance, reimbursable expenses, Payment and Performance Bond Premiums, and all construction field costs related to processing RFI's, field instructions, negotiating and issuing change orders and any other expense that is not included as a Cost Of The Work. CMAR's Direct Costs include all costs over and above direct payments to Subcontractors and suppliers, or the cost of self-performed Work even if not identified specifically herein. The CMAR may not seek reimbursement for any amount for Direct Costs in excess of the amount set out above unless otherwise specifically provided for in the Contract Documents. Although the total of all Direct Costs are capped as indicated in this section individual line items are not guaranteed.

7.1.2 CMAR's Fee is fixed in the amount of \$7,040,000 for the entire Project. This fee shall be paid as part of each payment application on a pro rata basis determined by the percentage of the total GMP completed as reflected on the approved CMAR applications for payment. The CMAR Fee shall be paid in addition to CMAR Direct Costs. This Fee is based on a project cost of \$220,000,000 however this amount shall not be adjusted for changes in the GMP other than a reduction or increase in scope ordered by the Owner. The Fee shall be adjusted proportionately with the net value of all reductions and additions in the scope of work. The adjustment shall be based on the same percentage of the Fee that the value of the adjustments in scope of the work is to the initial sum of \$220,000,000 (i.e. $3.2\% \times \text{New GMP}$ based on adjusted scope = New Fee based on adjusted scope).

7.1.3 If the CMAR elects to subcontract any portion of the Work required as part of the CMAR's Direct Costs, CMAR shall not seek or obtain reimbursement for any overhead or profit on such costs, these costs shall be subject to audit as set out above.

ARTICLE 8 COST OF THE WORK

8.1 The term "*Cost of the Work*" shall mean costs properly incurred in accordance with the terms of this Agreement for Work performed during the Construction Phase and actually paid or incurred by the CMAR and defined by Article 8.2. The Owner agrees to pay the CMAR for the Cost of the Work as defined in Article 8. Such payment shall be in addition to the CMAR's Direct Costs stipulated in Article 7.

8.2 Cost of the Work Items.

8.2.1 Cost of all materials, supplies, and equipment incorporated in the Work, including costs of transportation and storage thereof.

8.2.2 Cost of Work self-performed by the CMAR. The cost of CMAR's employees costs for self-performed Work (which must be the lowest competitive bid for that

Work) shall be established with certified payrolls with payroll taxes and fringe benefits added when such items can be shown to have been incurred and shall not include any employee, equipment, or other expense identified or job classification included as part of the Direct Cost. In no case shall the rates charged for labor exceed the rates paid by the CMAR for the same class of labor employed by it to perform other Work required by the Contract Documents. Payment to the CMAR for self-performed Work shall be made in the same manner as payments to Subcontractors. Such payments shall not exceed the amount of the CMAR's bid price for the portions of the Work where the CMAR price was lower than Subcontractor bid. .

8.2.3 Payments made by the CMAR to Subcontractors for their Work performed pursuant to subcontracts issued pursuant to this Agreement. Payments shall be based on percentage of completion of items reflected in a schedule of values provided by the CMAR and approved by Owner's Representative and A/E prior to starting that portion of the Work.

8.2.4 Cost, including transportation and maintenance, of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workmen, which are employed or consumed in the performance of the Work, and the cost less salvage value of such items used but not consumed which remain the property of the CMAR.

8.2.5 Rental charges of all necessary machinery and equipment, exclusive of hand tools, used at the Site of the Project, whether rented from the CMAR or others, including installation, repairs and replacements, dismantling, removal, costs of lubrication, transportation and delivery costs thereof, at rental charges consistent with those prevailing in the area. A schedule of rental rates for machinery and equipment of the CMAR shall be provided for Owner's Representative and A/E's approval prior to commencement of Work on the Project.

8.2.6 Sales, use, gross receipts, or similar taxes related to the Project imposed by any governmental Owner, and for which the CMAR is liable.

8.2.7 Reasonable cost of removal of all debris.

8.2.8 Cost incurred due to an emergency affecting the safety of persons and property.

8.2.10 Cost of insurance premiums, which shall be limited to those based on labor payroll and to the types of insurance required by the Contract Documents and which shall be subject to audit at the end of the Project and reduction with a deductive Change Order to account for insurance costs covered by an OCIP.

8.2.11 CMAR may include as a Cost of the Work, within the GMP limitation, the costs for a Subguard insurance policy covering Subcontractors with a subcontract value of \$200,000 or more. CMAR shall charge the project no more than 1.1% of the value of covered subcontracts for the Subguard insurance. CMAR shall not charge for Subguard insurance premiums for coverage of subcontractors with a subcontract value less than \$200,000. if CMAR elects to purchase Subguard Insurance for subcontractors with a subcontract value less than \$200,000 then the Subguard Premium shall be at CMAR's Sole Cost and Expense. CMAR agrees not to reject qualified Wayne County Headquartered Subcontractors merely because they

cannot qualify for Subguard insurance coverage, but who are otherwise suitable to perform portions of the work. CMAR shall provide a Financial Interest Endorsement to the Subguard policy covering Owner's interest in the project.

8.3 The term "Cost of the Work" shall not include the following items which shall be at CMAR's Sole Cost and Expense:

8.3.1 Payroll costs and other compensation of CMAR's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by CMAR, whether at the Site or in CMAR's principal or branch office for general administration of the Work, all of whom are considered administrative costs covered by the CMAR's Fee or Direct Costs.

8.3.2 Expenses of CMAR's principal, branch, and site offices, which are considered administrative costs covered by the CMAR's Fee or Direct Costs.

8.3.3 Any part of CMAR's capital expenses, including interest on CMAR's capital employed for the Work and charges against CMAR for delinquent payments.

8.3.4 Costs due to the negligence of CMAR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to any property.

8.3.5 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in CMAR's Fee or Direct Costs.

8.3.6 Any CMAR costs incurred by, or associated with the development, preparation, and prosecution of a claim.

8.3.7 Any cost or expense not specifically included in the Cost of Work as set out in the Contract Documents.

ARTICLE 9 CHANGES IN THE PROJECT OR WORK

9.1 The Owner and/or Owner's Representative, without invalidating this Agreement, may order changes in the Project or Work within the general scope of this Agreement consisting of additions, deletions, or other revisions. In such cases, the GMP and the Date of Substantial or Final Completion may be adjusted accordingly, subject to the Contract Documents. All such changes in the Project or Work shall be authorized by Change Order. No change, alteration, or modification of the Project design shall be made without a properly executed written Change Order.

9.1.1 A Change Order is a written order to the CMAR signed by the Owner or Owner's Representative issued after the execution of this Agreement, authorizing a change in the

Project or Work and/or an adjustment in the GMP or the Date of Final or Substantial Completion. Each adjustment in the GMP resulting from a Change Order shall clearly separate the amount attributable to the Cost of the Work and shall identify and exclude any CMAR's Direct Costs whether performed by the CMAR forces or included in the Change order to a Subcontractor.

9.1.2 The provisions for changes, claims for additional cost or time, and disputed Work are addressed in the Contract Documents. CMAR shall ensure that all Subcontractors, sub-subcontractors, and material suppliers are bound to the applicable terms of the Contract Documents.

ARTICLE 10 DISPUTE RESOLUTION

10.1 Notwithstanding anything to the contrary herein, all claims by the CMAR against the Owner that remain unresolved after complying with the claims procedures set out in the General Conditions shall be addressed first through a meeting between the CMAR's highest level officer familiar with the Project and the Owner's Representative's highest level staff member. The A/E shall attend this meeting if desired by the Owner's Representative. Highest level Subcontractor personnel and/or other CMAR personnel shall attend this meeting if requested by the Owner's Representative. Such meeting shall occur no earlier than thirty (30) days after Final Completion or termination of the Contract. At the Owner's option, this meeting may be conducted by a facilitator mutually acceptable to the parties, or, in the event the parties are unable to agree on a facilitator, the parties shall select a facilitator according to the American Arbitration Association Construction Industry Rules for Mediation. The meeting between the CMAR's highest officer and the Owner's Representative's highest level staff member is a condition precedent to the CMAR initiating litigation or demanding arbitration (if elected by the Owner).

10.2 In the sole and absolute discretion of the Owner, the Owner may elect to arbitrate claims, and thereafter all claims, disputes, and other matters in question arising out of or relating to Contract Documents and/or the Project, shall be decided by arbitration. If elected by the Owner, such arbitration shall be administered by the American Arbitration Association under its Construction Industry Arbitration Rules, and judgment on the award rendered by the arbitrator(s) shall be final and binding and shall be entered in any Court having jurisdiction thereof. The arbitration shall be conducted in Wayne County, Michigan. The Owner may, but is not required to, require the CMAR to join any of CMAR's Subcontractors and/or suppliers to the arbitration, and the CMAR shall ensure its contracts with each of CMAR's Subcontractors and suppliers include the right to join other parties to arbitration. CMAR shall have no right to join Subcontractors to the arbitration and Subcontractors shall not intervene in the arbitration unless joinder is requested by the Owner.

10.3 In the event the Owner does not elect arbitration, any and all disputes shall be settled via litigation in Wayne County, Michigan, it being agreed the CMAR conducts business in Wayne County, Michigan and the CMAR waives any claim that venue is improper in Wayne County, Michigan.

10.4 The pendency or possibility of a dispute between the Owner and CMAR shall not interfere with the progress of the Work by CMAR, nor shall the CMAR be permitted to suspend the Work, slow the performance of the Work, and/or terminate the Work unless specifically provided for in the Contract Documents.

ARTICLE 11 PAYMENTS TO THE CMAR

11.1 The CMAR shall submit monthly to the Owner's Representative, a statement, showing in detail the Cost of the Work completed less retainage in accordance with the provisions of paragraph 11.2 hereof, and the amount of the CMAR's Direct Costs due as provided in Article 7. The payment application procedure shall include a monthly pre-draw meeting in which a draft of the payment application will be prepared by the CMAR and reviewed and pre-approved by the Owner's Representative. No later than the 5th day of each month, a final monthly application for payment for Work through the end of the previous month shall be submitted by the CMAR to the Owner's Representative. Payment by the Owner to the CMAR shall be made within thirty (30) days thereafter, subject to the Baseline Schedule approval requirement set forth in section 1.1.

11.2 If the CMAR is a joint venture or association, the CMAR agrees it shall divide and apportion any payments received from the Owner in the percentages based on the Declared Interests as set forth in CMAR's response to the Owner's Request for Proposal. The CMAR's failure to divide and apportion payments in accordance with its declared interests shall be an Event of Default under this Agreement, and entitle the Owner to terminate this Agreement for cause. The response evaluation advantage offered to a business Headquartered in Wayne County and/or a TGC is designed to provide a specific benefit to Wayne County in the form of increased employment, local tax receipts, and other benefits. Any failure to provide the distribution of payments/profits represented as the Declared Interest in a Response to the Request for Proposal submitted by a Joint Venture who eventually becomes the CMAR will cause damage to Wayne County in an amount that is not readily calculable. Therefore it is agreed that if CMAR fails to provide staffing or distribute contributions and payments/profits in the percentage represented at bid time, with the Qualifying Partner (Walbridge Aldinger Company) providing staffing and contributions and payments and profits at least in the amount of its Declared Interests as set forth in CMAR's response to the Owner's Request for Proposal, but no more than 80% of the total staffing, the CMAR will pay to Owner as liquidated damages and not a penalty the amount of three million dollars (\$3,000,000). In the event that the Qualifying Partner who provided the basis for added points for consideration of the Responses to the Request for Proposal, becomes unable to continue to participate in the joint venture or association, and the CMAR joint venture is unable to replace the Qualifying Partner with a partner who has equivalent location based qualifications, the liquidated damages will be prorated based on the percentage of the work that was completed with that Qualifying Partner or association partner involved in the Project based on funds expended (E.G. if 50% of the GMP is expended when the Qualifying Partner becomes unable to continue then the liquidated damages shall be \$1,500,000). A joint venture may require a Qualifying Partner to pay their reasonable share of surety bond premiums or other joint venture expenses from their share of profits/fee without incurring the liquidated damages set out

herein as long as the Qualifying Partner's share of such costs is the same percentage as their interest in the profits/fee attained by the Joint Venture. The staffing levels and payments to joint venture partners in the amounts of the Declared Interest will be determined by audit of hours charged to the Project during and after the performance of the Construction Work. Initially this audit will be conducted together with the audit of CMAR records for the purpose of confirming the Cost of the Work incurred and paid by CMAR, however CMAR and shall provide such other and further documentation or proof of payments as may be requested by Owner's Representative as deemed necessary in the sole discretion of Owner's representative for the completion of the audit of joint venture interests, staffing and distributions. The liquidated damages set out herein apply only to a joint venture that receives additional points for evaluation of their proposal based on one or more partners being headquartered in Wayne County or in a TGC. The liquidated damages shall not apply if all Joint Venture Partners are Headquartered in Wayne County or in a TGC as long as the same number of points would apply to each joint venture partner. The total liquidated damages against the CMAR under this provision shall not exceed \$3,000,000. If charged, the liquidated damages may be deducted from any payments due to CMAR, or collected from the joint venture or its component entities.

11.2 Retention on all individual subcontracts, purchase agreements, on CMAR's Fee, and on CMAR's self performed work, which include both labor and material, shall be an amount equal to no less than ten percent (10%) of each Subcontractor's monthly payment application until at least fifty percent (50%) of such subcontract work is complete. Upon fifty percent (50%) completion, provided the Subcontractor's performance is satisfactory, and with the written approval of the CMAR and the Owner's Representative, no additional retention will be held on subsequent payments. Owner may withhold from any payment due to the CMAR, the costs of correcting any default in performance of the Work. Owner shall not be deemed in default by reason of withholding such amounts while any such default in performance of the Work remains uncured. In all cases, the CMAR shall be charged only with the actual costs of correction, and any amounts that have been withheld in excess of such costs shall be paid to the CMAR. All moneys held will be paid in accordance with the terms of payment pursuant to this Agreement.

11.2.1 Excluding CMAR's Fee, there shall be no retainage held on CMAR's Direct Costs.

11.3 The CMAR shall pay promptly all the amounts due Subcontractors or other persons with whom CMAR has a subcontract upon receipt of any payment from the Owner, the application for which includes amounts due such Subcontractor or other persons. Before issuance of payment, the CMAR shall submit all applicable Subcontractor affidavits and partial conditional releases including satisfactory evidence that all payrolls, materials, bills, and other indebtedness connected with the Work have been paid or will be paid out of the payment by Owner to CMAR or the same are otherwise satisfied.

11.4 To the extent that CMAR's statements are based upon Work performed by a Subcontractor, a sworn statement of each such Subcontractor attesting to the satisfactory completion of the Work for which an uncontested payment request is made shall accompany CMAR's statement.

11.5 CMAR shall obtain partial conditional releases from all Subcontractors, and furnish to the Owner's Representative together with a partial conditional release from CMAR.

ARTICLE 12 FINAL PAYMENT

12.1 Final Payment constituting the unpaid balance of the Cost of the Work and the CMAR's Direct Costs shall be payable when the Project is complete as defined in the Contract Documents and delivered to the Owner, ready for occupancy, provided that the Project is finally completed and accepted by Owner, and this Agreement fully performed as required by the Contract Documents.

12.2 Neither Final Payment nor any remaining retainage shall become due until the CMAR submits to the Owner's Representative (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work have been paid or otherwise satisfied; (2) consent of all sureties to Final Payment; (3) final record drawings, including record drawings marked by the CMAR with record information set forth in the Contract Documents and the CMAR's coordination drawings; (4) the final versions of all manufacturers' warranties, operations, and maintenance manuals, and/or other information that may be required by the Contract Documents, embodying such corrections and modifications from initial versions as the Owner's Representative shall reasonably request; (5) successful completion of all training and start up requirements in the Contract Documents; (6) a final CMAR's sworn statement from the CMAR duly executed and notarized showing all of CMAR's Subcontractors, suppliers, and laborers to be fully paid; (7) completion of all permit obligations and release of permits; and (8) all other conditions set forth in the Contract Documents.

12.3 The CMAR shall submit an Application for Final Payment when all Work is finally complete in accordance with the CMAR's obligations under the Contract Documents. The CMAR's Application for Final Payment shall include a request for payment of the retainage held by the Owner.

12.4 The acceptance of the Final Payment (in whole or in part) by the CMAR shall constitute a full and final release of Owner and waiver of all claims against the Owner arising out of or in connection with the Project and/or Contract Documents, except only those specific claims of the CMAR made in writing and expressly reserved by the CMAR in written notice to the Owner's Representative attached to the CMAR's Final Application for Payment. Notwithstanding anything to the contrary herein, the CMAR's written notice of reserved claims, presented to the Owner's Representative with the CMAR's Application for Final Payment, may not revive claims which were required to have been otherwise filed in accordance with the Contract Documents.

12.5 If there should remain minor items to be completed, the CMAR and the A/E shall list such items and the CMAR shall deliver, in writing, an unconditional promise to complete said items within thirty (30) days. The Owner may retain a sum equal to One Hundred Fifty Percent (150%) of the estimated cost of completing any unfinished items, provided that said unfinished items are listed separately and the estimated cost of completing any unfinished items

are likewise listed separately. Thereafter, Owner shall pay to CMAR, monthly, the amount retained for incomplete items as each of said items is completed.

ARTICLE 13

INSURANCE, INDEMNITY AND WAIVER OF SUBROGATION

13.1 Indemnity.

13.1.1 To the fullest extent permitted by law, CMAR shall indemnify, defend (with counsel acceptable to Owner) and hold harmless Owner, A/E, and Owner's Representative and their respective directors, officers, members, partners, affiliates, employees, agents, and successors, from and against any and all liabilities, claims, causes of action, lawsuits, liens, injuries, damages, losses, and expenses (collectively "Demands") caused by, arising out of, resulting from, or occurring in connection with:

- (A) CMAR's breach of, or failure to comply with, the Agreement or any other Contract Document that CMAR enters into regarding the Work, including any default; or
- (B) Personal injury or death to any person (including, but not limited to, CMAR, CMAR's employees, Subcontractors, Subcontractors' employees and material suppliers) or injury to or destruction of property (including claims for loss of use) caused by, arising out of, resulting from, or in any way connected with (a) the Work, (b) any activity associated with the Work, or (c) the operations or acts of commission or omission of CMAR, CMAR's employees, Subcontractors, Subcontractors' employees, material suppliers, or anyone for whom CMAR is legally liable in the performance of Work (including under this Agreement), whether arising before or after completion of the Work, and whether caused in whole or in part by the active or passive negligence or other fault of a party indemnified.

13.1.2 CMAR's indemnity obligations under this Agreement shall include, but are not limited to:

- (A) Indemnity for all damages and judgment interest, all costs and fees, including, but not limited to, all defense costs, expenses and actual attorneys' fees, and all settlement payments relating to, arising out of, resulting from, or in any way connected with any Demand requiring indemnity by this Agreement;
- (B) All expenses, including, but not limited to, costs, expenses, and actual attorneys' fees, incurred in securing and enforcing indemnity from CMAR if CMAR fails or refuses to promptly fulfill any of the indemnity obligations under this Agreement;

- (C) All indemnification obligations imposed upon Owner or A/E, or both, arising out of or in connection with the Work or the Agreement; and
- (D) Indemnification for any penalties and/or fines arising or resulting from CMAR's or any Subcontractor's failure to comply with laws and/or regulations applicable to its/their Work.

13.1.3 Owner's, A/E's or other indemnitee's fault or negligence shall not be a defense to or bar CMAR's duty to indemnify Owner, A/E, or such indemnitee except where the negligence of the Owner, A/E, or indemnitee is the sole cause of the injury giving rise to the Demand.

13.1.4 The indemnification rights under this Agreement shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist.

13.1.5 Owner, at its option, may select counsel to defend any demand brought against Owner without impairing any obligation of the CMAR to provide indemnification.

13.1.6 The indemnification provisions under this Agreement shall survive the completion or termination of this Agreement.

13.1.7 In the case of claims by any employee of CMAR, anyone directly or indirectly employed by CMAR or anyone for whose acts CMAR may be liable, the indemnification obligations under this Agreement 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 CMAR under workers' compensation acts. Such obligations shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Agreement.

13.1.8 The indemnification obligations of CMAR under this Agreement shall not extend to the liability of A/E and A/E's officers, directors, partners, employees, agents, consultants, and Subcontractors to the extent caused by: A/E's

- (A) preparation of or the failure to prepare maps, drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
- (B) giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

13.2 Insurance. Insurance for Project may be provided through an Owner Controlled Insurance Program ("OCIP"). OCIP insurance provisions and CMAR and Subcontractor/supplier insurance requirements are set out in Attachment H and Attachment I. In the event the Owner elects to use an OCIP, the CMAR and all eligible and approved Subcontractors and vendors shall be enrolled in the OCIP and shall comply with the provisions

of Attachment H, Insurance Provisions, as well as the OCIP and Insurance Manual, Attachment I. The coverage that is provided under the OCIP is set out in the policy documents.

13.3 **Builder's Risk Insurance.** The Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in Wayne County, Michigan property insurance written on a builder's risk "all-risk" policy form in the amount of the Initial GMP, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising the total value for the entire Project site on a replacement costs basis. Such builder's risk insurance shall be maintained until final payment has been made as provided herein or until no person or entity other than the Owner has an insurable interest in the Project, whichever is later. The insurance shall include interests of the Owner, the CMAR, and the CMAR's Subcontractors, sub-subcontractors and suppliers on the Project. The insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation insurance against the perils of fire (with extended coverage) and physical loss or damage, including without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake flood, windstorm, including demolition occasioned by enforcement of any applicable legal requirements. The policy shall cover, without limitation, falsework, testing and startup, temporary buildings and debris removal and shall cover reasonable compensation for CMAR's services or expenses as required as a result of such insurance loss. If the insurance requires deductibles, the CMAR shall reimburse the Owner for all deductibles, up to a maximum amount of \$50,000.00 per occurrence, unless the loss was caused solely by Owner, Owner's Representative, and/or A/E. The Owner shall be responsible for the cost of all other deductibles for this policy. This shall not preclude the owner from recovering deductibles from parties other than CMAR in the event those deductibles are not paid by CMAR.

13.4 **Waiver of Subrogation.** The Owner and CMAR waive all rights against (1) each other and any of their representatives, consultants, separate contractors subcontractors, sub-consultants, sub-subcontractors, agents, and employees, each of the other, and (2) the A/E, A/E's consultants, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Agreement and the attachments hereto or other property insurance applicable to the Work, except as such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or CMAR, as appropriate, shall require of the A/E, the A/E's consultants, separate contractors if any, and the Subcontractors, sub-subcontractors, consultants, sub-consultants, agents and employees of any of them, by appropriate agreements, similar waivers each in favor of the other parties enumerated herein. The policies shall provide such waiver of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

ARTICLE 14

TERMINATION OF THE AGREEMENT AND OWNER'S

RIGHT TO PERFORM CMAR'S OBLIGATIONS

14.1 Owner's Right Upon Default by CMAR to Terminate for Cause or to Perform CMAR's Obligations and to Assignment of Contracts.

14.1.1 The following ("*Events of Default*") constitute an event of default and grounds for termination for cause as set forth in Paragraph 14.2.2 below:

- (A) if the CMAR is adjudged a bankrupt or makes a general assignment for the benefit of CMAR's creditors;
- (B) if a receiver is appointed;
- (C) if CMAR persistently, repeatedly, or materially refuses or fails to prosecute the Work in a diligent or professional manner or to supply enough properly skilled workmen or proper materials to the Project or repeatedly falls behind Project Baseline Schedule (as updated) (except in cases for which an extension of time is provided for);
- (D) if CMAR fails to make payment promptly when due to Subcontractors or for materials or labor in accordance with the terms of the subcontracts therefore or as required by law, as applicable;
- (E) if CMAR repeatedly or materially disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction with respect to the Project; or
- (F) if CMAR fails to perform any of CMAR's obligations under this Agreement and CMAR fails to cure such failure within ten (10) days of receiving notice from Owner's Representative requesting correction of such failure.

14.1.2 In the event of an Event of Default, Owner may, without prejudice to any other right or remedy and after giving CMAR written Notice as required in Article 16 as applicable, (during which period CMAR fails to begin efforts to cure the violation and diligently continue such efforts with all dispatch, but in no event less than the cure time prescribed in Paragraph 14.1.1), terminate this Agreement and the employment of the CMAR and take possession of the Project Site and of all materials, equipment, tools, construction equipment, subcontracts (and Owner or Owner's designee shall be deemed thereby to be an assignee of all subcontracts which Owner chooses to accept) and all materials on order, and machinery thereon owned by the CMAR and may finish the Work by whatever method Owner may deem expedient.

14.1.3 In addition to the rights of the Owner pursuant to Paragraph 14.1.2 above, Owner shall also be entitled to pursue whatever rights or remedies Owner may have at law or

equity for breach of contract or in accordance with other provisions of this Agreement. CMAR agrees to execute any and all documents required to effect an assignment of all subcontracts related to the Work which Owner elects to accept. If CMAR fails or is unwilling to execute any such document upon request, then CMAR hereby appoints Owner as CMAR's attorney-in-fact, coupled with interest, to execute such document on CMAR's behalf.

14.1.4 If Owner's Representative determines the CMAR has fallen behind in the progress of the Work or is in danger of falling behind the required rate of progress necessary to complete the Work within the Contract Time, or is responsible for delays at the Project, the Owner's Representative may (but is not required to) direct CMAR on written notice to take the steps Owner's Representative deems necessary to improve the rate of progress of the Work, including requiring CMAR to increase its labor force, number of shifts and/or overtime operations, days of work, or to provide additional equipment or materials. Within forty-eight (48) hours of such written notice from Owner's Representative, CMAR shall submit for Owner's Representative's approval a detailed recovery plan and recovery schedule to demonstrate the manner by which CMAR will implement the required steps to attain the required rate of progress. CMAR will implement the recovery plan and recovery schedule immediately upon Owner's Representative's approval. If Owner's Representative determines that CMAR's recovery plan and recovery schedule will not attain the required rate of progress, CMAR will take the steps Owner's Representative directs in that regard and perform the Work accordingly, all without additional cost to the Owner. If CMAR fails to submit or follow a recovery plan and recovery schedule as required or perform the Work in accordance with Owner's Representative's directives in the event CMAR's recovery plan and recovery schedule are not approved, Owner may, following twenty-four (24) hour notice to CMAR, perform the Work as Owner deems necessary, including but not limited to supplementing CMAR's forces, to attain the required rate of progress. Owner may deduct from any payment due CMAR or collect directly from CMAR on demand all costs, expenses and damages incurred or suffered by Owner in connection with CMAR's delay in the progress of the Work.

14.2 Termination by Owner Without Cause.

14.2.1 Owner may terminate this Agreement at anytime for Owner's own convenience and without reason or cause. If the Owner terminates this Agreement for any reason other than pursuant to Paragraph 14.1.1, it shall be deemed to be without cause and the Owner shall reimburse the CMAR for any unpaid Cost of the Work due under Article 8, plus (i) the unpaid balance of the CMAR's Direct Costs computed on a pro rata basis of the Cost of the Work completed versus the CMAR's Direct Costs that would have been earned if all Work on the Project were completed through completion of the Project, (ii) fair compensation, either by purchase or rental at the election of the Owner, of any equipment of CMAR retained by Owner, and (iii) reasonable demobilization expenses of CMAR. In such event, if Owner so elects in its sole discretion, Owner shall be deemed to be an assignee of all subcontracts of CMAR and Owner shall further assume and become liable for all other obligations, commitments, in connection with the Project from that point forward, offset by any amounts owed to Owner by CMAR. The CMAR shall, as a condition of receiving the payments referred to in this Paragraph, execute and deliver all such papers and take all such steps, including the legal assignment of all contractual rights, as the Owner may require for the purpose of fully vesting in CMAR the rights

and benefits of the CMAR under such obligations or commitments. CMAR agrees to execute any and all documents required to effect an assignment of all subcontracts related to the Project. If CMAR fails or is unwilling to execute any such document upon request, then CMAR hereby appoints Owner as CMAR's attorney-in-fact, coupled with interest, to execute such document on CMAR's behalf. The payment under this Paragraph for termination by Owner without cause, which shall not include lost profits, shall constitute full and complete satisfaction and damages to CMAR for all matters related to such termination without cause.

ARTICLE 15 ASSIGNMENT AND GOVERNING LAW

15.1 Neither the Owner nor the CMAR shall assign its interest in this Agreement without the written consent of the other, except as to the assignment of proceeds.

15.2 This Agreement shall be governed by the laws of the State of Michigan.

ARTICLE 16 MISCELLANEOUS PROVISIONS

16.1 Notices. Any notice provided for in this Agreement shall be valid only if delivered in writing in person service and in each case personally receipted for by such person, or by recognized courier, or by certified mail to be effective three (3) business days after posting, to the persons and addresses listed below:

If to Owner, to:

Parlovecchio Building, Inc.
Attn: Anthony Parlovecchio
500 Griswold, Suite 2410
Detroit, MI 48226

With a copy to:

Jeffrey M. Sangster
Kotz, Sangster, Wysocki and Berg, P.C.
400 Renaissance Center, Suite 3400
Detroit, Michigan 48243

If to CMAR to:

Walbridge-dck Joint Venture
Attention: Donald Greenwell, Jr., P.E.
777 Woodard Avenue, Ste. 300
Detroit, MI 48226

with a copy to:

Thomas D. Dyze, Esq.
Walbridge-Aldinger Company
777 Woodard Avenue, Ste. 300
Detroit, MI 48226

16.2 Discounts. All discounts for prompt payment shall accrue to the Owner to the extent the Cost of the Work is paid directly by the Owner or from a fund made available by the Owner to the CMAR for such payments. To the extent the Cost of the Work is paid with funds of the CMAR, all cash discounts shall accrue to the CMAR. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work.

16.3 Owner's Representative. The Owner's Representative is Parlovecchio Building, Inc. ALL APPROVALS REQUIRED FROM THE OWNER'S REPRESENTATIVE SHALL BE IN WRITING AND SHALL BE INEFFECTIVE AND NON-BINDING UNLESS SIGNED BY ANTHONY PARLOVECCHIO OR BY A PERSON OR PERSONS DESIGNATED BY THIS INDIVIDUAL IN WRITING.

16.4 Conflict of Interest. The CMAR hereby represents and warrants that CMAR does not now and will not, during CMAR's performance hereof, have any direct or indirect proprietary, or other interest in any patent, system, method, plan, or design of construction or in any building procedures, which if used, would involve the payment of royalties, fees, or commissions that will be recommended or used in the drawings, Specifications or other documents for the Project, nor in any manufacture or fabrication of any materials to be recommended or specified for use in the Project. The CMAR hereby represents and warrants that neither the CMAR nor any firm of which any officer, director, supervisory employee, owner, or principal stockholder of the CMAR is an officer, director, supervisory employee, principal stockholder, or owner, or of which the CMAR is a principal stockholder or owner, shall, make or cause to be made any bid on the Project unless otherwise authorized by the Owner's Representative. For purpose of this provision, the term "principal stockholder or owner" means any person or entity holding ten percent (10%) or more of the capital stock or other ownership interest of such corporation or entity in their or its own name or which is held directly or indirectly for their or its account. The provisions of this Article 16.3 shall survive the termination or expiration of this Agreement.

16.5 Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of the Agreement, or the application of such provisions to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. The recitals set forth above are incorporated herein by reference as if fully restated herein.

16.6 No Partnership, Joint Venture, or Third Party Beneficiaries. The development of the Project is not, and shall not by virtue of this Agreement be deemed to be, a partnership or joint venture of Owner and CMAR, and the CMAR shall not have any rights by virtue of this Agreement in the Project or in the income or profits derived therefrom. This Agreement shall inure solely to the benefit of the parties hereto and their successors and assigns as above provided, and is not intended to and shall not create rights of any nature in favor of any third parties. The CMAR shall not be a third party beneficiary of any contract or agreement between the Owner and the (i) Owner's Representative or (ii) A/E.

16.7 No Waiver. No repeated failure by the Owner to insist upon strict performance of any covenant, agreement, term, or condition of this Agreement or to exercise any right, term, or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term, or condition. No waiver of any breach shall affect or alter this Agreement, but each and every covenant, agreement, term, and condition of this Agreement shall continue in full force and effect with respect to any other then-existing or subsequent breach thereof.

ARTICLE 17 LIQUIDATED DAMAGES

17.1 Time is of the essence and CMAR acknowledges and recognizes that Owner is entitled to full and beneficial occupancy and use of the completed Work on the date by which Substantial Completion is required for each portion of the Work under the Contract Documents and (2) the Owner has entered into, or will enter into, agreements based upon the CMAR achieving Substantial Completion of the Work by the required Substantial Completion date. The CMAR further acknowledges and agrees that if the CMAR fails to cause the Substantial Completion of the Work by the required Substantial Completion date thereof, the Owner will sustain extensive damages and serious loss as a result of such failure. The exact amount of such damages will be extremely difficult to ascertain. If the CMAR fails to achieve Substantial Completion of the Work by the required Substantial Completion date, as otherwise required by the Contract Documents, the Owner shall be entitled to retain or recover from the CMAR, as liquidated damages and not as a penalty, an amount equal to \$16,000.00 per day for each day the Substantial Completion is exceeded. For each day the Final Completion Date as set forth in the Contract Documents ("Final Completion") is exceeded, the Owner shall be entitled to collect liquidated damages of \$5,000.00 per day. Such liquidated damages do not include and are in addition to the reduction and/or elimination of CMAR's distribution of Gross Savings under the Contract Documents.

ARTICLE 18 MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES

18.1 The CMAR and the Owner waive claims against each other for consequential damages arising out of or relating to the Project. This mutual waiver includes damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and

reputation, and for loss of management or employee productivity or of the service of such persons; and damages incurred by the CMAR, including by example, damages for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, loss of bonding capacity, expectation damages, and for loss of profit, except for anticipated profit arising directly from completed work. This mutual wavier is also applicable, without limitation to all consequential damages to either party's termination, whether for cause or convenience. This wavier does not apply to and shall not waive the Authority's right to recover liquidated damages, or the Authority's right to reduce and/or eliminate CMAR's distribution of Gross Savings in accordance with the terms of this Agreement,

IN WITNESS WHEREOF, this Agreement has been executed by the parties as of the day and year first written above.

OWNER:

By:

Name: Nathan K Ford

Title: Chairman

CMAR:

By:

Name:

Title: JOHN RAKOLTA JR
CHAIRMAN & CEO of Managing Member

Tab A

#2

ATTACHMENT A – PROJECT DESCRIPTION

The proposed Wayne County Consolidated Jail Facility is currently projected to be in excess of 700,000 Building Gross Square Feet (BGSF) consisting of a partial basement level with a tunnel connection to the Frank Murphy Justice Center, main support level, and three levels of housing. Approximate total capacity is 2,192 beds, and generally includes twelve 64 cell single cell units, eighteen 64 bed dormitory units consisting principally of eight 8-person mini-dorms, and other special housing. The facility is located on a 7.175 acre site directly east of the Frank Murphy Justice Center bordered by St. Antoine Street on the west, Gratiot St. on the north, the Chrysler Freeway on the east, and Macomb St. on the south.

The approximate measurements set out herein or elsewhere in the Contract Documents are estimates based on initial take offs by the A/E and are included for general information purposes only. CMAR is responsible to verify all measurements and shall construct the facility as shown on the drawings with no claim for additional compensation based on existing drawings depicting different square footage(s) than those set forth in the Contract Documents.

Tab B
#2

ATTACHMENT B
General Conditions

GENERAL CONDITIONS
OF THE
GUARANTEED MAXIMUM PRICE
CONSTRUCTION MANAGEMENT AGREEMENT
FOR
THE WAYNE COUNTY CONSOLIDATED JAIL FACILITY
FOR
THE WAYNE COUNTY BUILDING AUTHORITY

**GENERAL CONDITIONS OF THE GUARANTEED MAXIMUM PRICE
CONSTRUCTION MANAGEMENT AGREEMENT**

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**GENERAL CONDITIONS OF THE GUARANTEED MAXIMUM PRICE
CONSTRUCTION MANAGEMENT AGREEMENT**

ARTICLE 1 - THE CONTRACT DOCUMENTS

11 DEFINITIONS

1.1.1 The Contract Documents

- 1.1.1.1 The Contract Documents consist of the Guaranteed Maximum Price Construction Management Agreement ("Agreement") between Owner and Construction Manager At Risk, the Attachments to the Agreement, the General Conditions of the Guaranteed Maximum Price Construction Management Agreement, the drawings, the Specifications, Addenda issued before execution of the Agreement, Change Orders issued after execution of the Agreement, and Work Directives. The Contract Documents do not include the Request for Proposals, other information furnished by the Owner in anticipation of receiving bids or proposals, the CMAR's bid or proposal, or portions of Addenda relating to the Request for Proposals and/or the bidding requirements.
- 1.1.1.2 In the event of any conflict or inconsistency between these General Conditions and the Construction Agreement, the Construction Agreement will control.
- 1.1.1.3 The Contract Documents form the Agreement. The Agreement represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral.
- 1.1.1.4 The Contract Documents shall not be construed to create any contractual relationship of any kind between the A/E and the CMAR or any Subcontractors or Sub-subcontractors, or between any person or entities other than the Owner and the CMAR.
- 1.1.1.5 The Contract Documents are complementary and what is required by any one shall be as binding as if required by all. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings.
- 1.1.1.6 The drawings, Specifications, and addenda, hereinafter enumerated in the scope of Work identified herein, if any, shall form part of the Contract Documents and the provisions thereof shall be as binding upon the parties hereto as if they were fully set forth herein. The table

of contents, titles, headings, running headlines, and marginal notes contained herein and in said documents are solely to facilitate reference to various provisions of the Contract Documents and in no way affect, limit, or cast light on the interpretation of the provisions to which they refer.

1.1.2 GMP

The term GMP means and refers to the Guaranteed Maximum Price. The GMP does not include the Owner's separate work for utility relocation and mass excavation. The GMP is the maximum amount paid to the CMAR for the completion of the Work.

1.1.3 Owner

The Owner is The Wayne County Building Authority, a component authority of the Charter County of Wayne, Michigan created pursuant to Act 31 of the Michigan Public Acts of 1948.

1.1.4 Owner's Representative.

The Owner shall designate, in its sole discretion, an Owner's Representative. The Owner's Representative is Parlovecchio Building Inc., by Anthony Parlovecchio or such other agent of Parlovecchio Building Inc. as may be designated in writing by Parlovecchio Building Inc.

1.1.4.1 [INTENTIONALLY OMITTED]

1.1.4.2 Whenever the Contract Documents refer to any communications or information to be provided by the Owner, or where any submission, communication, or notice is required to be provided to the Owner, such reference shall be to the Owner's Representative. Where an action is required by or on behalf of the Owner, such reference shall be to the Owner only unless the Owner's Representative is expressly identified. (Thus, for example, payment applications are submitted through the Owner's Representative, but the OCIP is provided by the Owner, not by the Owner's Representative). Any obligations of the Owner under the Contract Documents are obligations of the Owner only and not the Owner's Representative.

1.1.4.3 Decisions to be made by the Owner, shall be made only by the Owner, but may be communicated through the Owner's Representative.

1.1.5 Addenda

Addenda are written documents or graphic instruments issued by the Owner's Representative or A/E prior to execution of the Agreement, which modify or interpret the Contract Documents by addition, deletion, clarification, or correction. Addenda must be specifically identified as an "Addenda" and executed by Owner's Representative.

1.1.6 Change Order

A Change Order prepared by the A/E is a written order to the CMAR, signed by the Owner's Representative and, at the Owner's Representative's discretion, by the A/E, issued after the execution of the Agreement, authorizing a change in the Work and possibly an adjustment in the GMP and/or the Contract Time, if applicable. The Change Order will be signed by the CMAR to indicate agreement with the change in the Work, and an adjustment in the GMP and/or the Contract Time. The CMAR's signature on a Change Order creates a conclusive presumption that the Change Order covers all costs, expenses, impact, etc., and extensions of time necessary and related to the change.

1.1.7 The Work

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

1.1.8 The Project

1.1.8.1 The Project is the construction of the Wayne County Consolidated Jail Facility, projected to be approximately 700,000 Building Gross Square Feet and consisting of a partial basement level with a tunnel connection to the Frank Murphy Justice Center, main support level, and three levels of housing. Approximate total capacity is 2,192 beds, and generally includes twelve 64 cell single cell units, eighteen 64 bed dormitory units consisting principally of eight 8-person mini-dorms, and other special housing. The facility is located on a 7.175 acre site directly east of the Frank Murphy Justice Center bordered by St. Antoine Street on the west, Gratiot St. on the north, the Chrysler Freeway on the east, and Macomb St. on the south.

1.1.8.2 The Project Site or the Site means the area within the Owner's property lines or portions of such area which are enclosed within a contract limit line, including any structures or encumbrances within

such area.

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

1.1.9 CMAR

CMAR shall mean the Construction Manager At Risk who is: Walbridge-dck joint venture, and shall include all employees, officers, directors, agents, employees, consultants, or anyone acting on behalf of the CMAR.

1.1.10 CMAR's Direct Costs

CMAR's Direct Costs includes all costs over and above direct payments to Subcontractors and suppliers and also excludes the CMAR's cost of self-performed Work as set forth in the Contract Documents.

1.1.11 "CMAR Shall"

The words "CMAR shall" are implied and shall be so understood wherever a direction is stated in the imperative mood and wherever the words "provide," "furnish," or "install" are used. Minor items and accessories or devices reasonably inferable as necessary to the complete and proper installation and operation of any system, shall be provided by or through the CMAR for such system whether or not they are specifically called for by the Specifications or drawings.

1.1.12 Calendar Day

Any calendar day including weekdays, Saturdays, Sundays, and legal holidays.

1.1.3 Work Day

Any calendar day excluding Saturdays, Sundays, and legal holidays.

1.1.14 Notice to Proceed

This term shall mean notice to the CMAR to commence its Work on the Project, issued either before or after execution of the Agreement. In issuing the notice, stipulations may be included in the Notice to Proceed, or in the Contract Documents, as to time and other requirements that may condition commencement of the Work at the Site. In the absence of a specific Notice to Proceed, the execution of the Agreement shall be deemed as such notice, conditional upon the submission a Performance Bond and Payment Bond, as required by the Contract Documents.

1.1.15 Date of Commencement

The Date of Commencement of the Work shall be the date when the CMAR is notified, by receipt of the Owner's Representative's Notice to Proceed, that the CMAR shall begin the Work.

1.1.16 Contract Time

The Contract Time is the period of time allotted for Substantial Completion and Final Completion of the Work. CMAR shall obtain Substantial Completion of the Work as required herein by June 30, 2014. The CMAR shall obtain Final Completion of the Work as required herein by August 31, 2014. The Contract Time shall be used when establishing the Baseline Schedule.

1.1.17 Substantial Completion or Substantially Complete

Substantial Completion or Substantially Complete shall mean the Work (or separable units or phases as determined by the A/E and Owner's Representative at the discretion of the Owner's Representative) that is satisfactorily complete in accordance with the Contract Documents, as modified by approved Change Orders or other written orders, ready for occupancy or use by the Owner in the manner intended without inconvenience or discomfort. The determination by the A/E and Owner's Representative on the status of Substantial Completion shall generally mean: all materials, equipment, systems, controls, features, facilities, accessories, and similar elements are installed in the proper manner and in operating conditions; spaces and surfaces (except minor areas and spaces) have been painted or otherwise finished throughout; masonry and concrete cleaned with any sealer or other finish applied; casework installed, complete with tops, sinks, fittings, and other related items installed and services connected; utilities and systems connected and functioning, Site Work is complete; permanent heating, ventilating, air conditioning, and other systems properly operating with proper controls, and properly balanced; lighting and electrical systems installed, operable, and controlled; all Work is to a similar state of essential and satisfactory completion; and all applicable regulatory permits or approvals required for the Owner to use and occupy the Work having been issued.

1.1.18 Certificate of Substantial Completion

A Certificate of Substantial Completion is a document issued by the A/E and the Owner's Representative to the CMAR indicating that the Work is Substantially Complete.

1.1.19 Specifications

The Specifications include all Specifications for the Project as set forth and attached hereto and others as hereafter set forth in writings by Owner's Representative for the Project.

1.1.20 Provide or Perform

The term "provide" or "perform" shall mean to furnish or supply and install complete, including as applicable all connections to utilities or service, complete anchorage and suspension, fastening or anchor devices, controls, trim, supports, operation and other related items or labor, unless specifically specified otherwise.

1.1.21 A/E

The Architect/Engineer retained by the Owner for this Project is AECOM/Ghafari. AECOM/Ghafari is also the Program Manager. For ease of reference the term "A/E" is used in the Contract Documents to refer to AECOM/Ghafari in both the role of Architect/Engineer and Program Manager. Unless the Owner's Representative provides clear and unequivocal notice of a replacement A/E, all references to A/E shall refer to AECOM/Ghafari.

1.1.22 [INTENTIONALLY OMITTED]

1.1.23 Supply

The term "Supply" means to purchase, procure, acquire, and deliver to the place or location of installation, complete with related accessories.

1.1.24 Product

The term "Product" as used herein includes materials, systems and equipment.

1.1.25 Words

Words in the singular shall include the plural whenever applicable.

1.1.26 Specialist

An individual or firm of established reputation (or, if newly organized, whose personnel have previously established a reputation in the same field), which is regularly engaged in, and which maintains a regular force of workmen skilled in either manufacturing or fabrication of items required by the Contract Documents. Where the Specifications require installation by the Specialist, that term shall also be deemed to mean either the manufacturer of the item, an individual, or firm licensed by the manufacturer, or an individual or firm who will perform the Work under the manufacturer's

direct supervision.

1.1.27 [INTENTIONALLY OMITTED]

1.1.28 "Returned without Exceptions" from A/E

Where used in conjunction with the A/E's response to submittals, requests, applications, inquiries, reports, and claims by the CMAR, the meaning of the term "returned without exceptions" shall indicate that the A/E has: (1) reviewed with no exceptions noted, (2) reviewed with exceptions noted and resubmission not required, (3) reviewed with exceptions noted and resubmission required, (4) rejected with resubmission required, or (5) information received with no review required. In no case shall review or "approval" or "returned without exceptions" by A/E be interpreted as a release of the CMAR from responsibilities to fulfill the requirements of the Contract Documents. The A/E shall have no liability or responsibility for the failure of an item to fit or function as intended or to conform to the requirements of the Contract Documents.

1.1.29 "Returned without Exceptions" for Owner's Representative

Where used in conjunction with the Owner's Representative's response to submittals, requests, applications, inquiries, reports, and claims by the CMAR, the meaning of the term "returned without exceptions" shall indicate that the Owner's Representative has received the communication. In no case shall review or "approval" or "returned without exceptions" by the Owner's Representative be interpreted as a release of the CMAR from responsibilities to fulfill the requirements of the Contract Documents. The Owner's Representative shall have no liability or responsibility for the failure of an item to fit or function as intended or to conform to the requirements of the Contract Documents.

1.1.30 Indicated

The term "Indicated" is a cross reference to details, notes, or schedules on the drawings, other paragraphs or schedules in the Specifications, and similar means of recording requirements in the Contract Documents. Where terms such as "shown," "noted," "scheduled," and "specified" are used instead of "indicated," it is for purpose of helping the reader accomplish the cross reference, and no limitation of location is intended except as specifically noted.

1.1.31 Suitable, Reasonable, Proper, Correct, Necessary

Such terms shall mean suitable, reasonable, proper, correct, or necessary for the purpose intended as required by the Contract Documents, subject to the judgment of the Owner's Representative.

1.1.32 Including, Such As

The terms "including" and "such as" shall always be taken in the most inclusive sense, namely, "including, but not limited to," and "such as, but not limited to."

1.1.33 At No Additional Cost

The terms "At No Additional Cost" or "At No Cost to the Owner" or "At CMAR's Sole Cost and Expense" or any similar terms, shall mean that the Work, services, or materials referred to shall be provided without any increase in the GMP and without including those costs in the Cost of the Work, or in CMAR Direct Costs. References to items performed that are to be performed, completed or provided "At No Additional Cost" or "At No Cost to the Owner" or "At CMAR's Sole Cost and Expense" or any similar terms, are not an exhaustive or exclusive list of such items but merely specific instances where the treatment of an item is addressed expressly for clarity.

1.1.34 Exposed

The term "Exposed" shall mean any item or surface, exterior or interior, which can be seen by a person outside the building, or seen by a person inside any usable space within the building during normal activity. Mechanical and electrical rooms, air handling rooms, storage rooms, and penthouses shall be considered to have Exposed surfaces, as shall the mechanical and electrical construction within them. The interiors of closets and alcoves shall be considered Exposed surfaces and shall be finished to match the finish of the adjoining room or space, unless another finish is indicated. The interiors of cabinets shall be considered Exposed, but a finish different from that of the exterior may be permitted or required. Spaces which are not normally occupied or used by occupants or building staff, such as shafts, hoist ways, tunnels, ceiling plenums, and attics shall be considered "concealed" spaces unless finishes are shown or specified for their surfaces. When something is described as "exposed to" another thing, it shall mean "in the presence of" (i.e. "exposed to sunlight," "exposed to sewage," etc.).

1.2 EXECUTION, CORRELATION, INTENT, AND INTERPRETATIONS

- 1.2.1 Execution of the Agreement by the CMAR is a representation that the CMAR has visited the Site, become familiar with any and all local conditions under which the Work is to be performed, and has correlated

personal observations with the requirements of the Contract Documents. Failure of the CMAR to fully acquaint itself with the amount and nature of Work necessary to complete the Project in conformity with all of the requirements of the Contract Documents, which such amount and nature of Work could be reasonably determined by the CMAR, will not be considered subsequently as a basis for extra compensation. The CMAR also represents CMAR has examined all available Contract Documents for the Work and the Project, including those intended for work or trades not normally performed by the CMAR's own forces, and has become thoroughly familiar with all conditions which may pertain to or affect the Work and its costs under the Contract Documents. The Agreement shall be signed in duplicate by the Owner's Representative and the CMAR.

1.2.2 The intention of the Contract Documents is to include all labor, materials, equipment, and all other items necessary for the proper execution and satisfactory completion of the Work, including proper operation and condition. For any of the Work that is shown, indicated, noted, or referred to in any of the Contract Documents, or is reasonably inferable therefrom as being necessary to produce the intended results, and which is not covered under any heading, section, branch, class, or trade of the Specifications, shall be provided in accordance with the A/E's instructions At No Additional Cost to the Owner. Should there be an inconsistency in the quality or quantity of Work required under the Contract Documents, it shall be interpreted that the greater quality or quantity of Work is required under the Contract Documents, without increase in the GMP. If the Owner's Representative decides in writing to accept the lesser quantity or lower quality of materials and Work, the CMAR shall credit to the Owner as a reduction of the GMP, the difference between the Cost of the Work that the Owner's Representative accepts and the cost of the greater quantity or better quality of materials and Work. The Contract Documents generally do not set forth the basis and analysis of design and the CMAR shall obtain such information as may be necessary to satisfactorily perform and complete the Work.

1.2.3 The organization of the Specifications into divisions, sections, and articles, and the arrangement of the drawings shall not control the CMAR in dividing the Work among contractors or in establishing the extent of Work to be performed by any trade unless it is specified that a contractor include specific phases or elements to complete a certain part of the Work for reasons of coordination or responsibility. Where the Specification has been divided into sections, it is for convenience in use. The A/E and the Owner's Representative assume no responsibility for the placement of materials, equipment, or other phases of the Work into proper division or section of the Specifications, nor for the arrangement of Work shown on the drawings. Neither the A/E nor the Owner's Representative shall be obligated to enter into any jurisdictional or other dispute as a result of the organization, arrangement, or location of parts of the Work in the Specifications or drawings, nor serve as an arbitrator to

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establish contractual limits between the CMAR and any Subcontractor.

- 124 Written interpretations necessary for the proper execution of the Work may be issued with reasonable promptness by the A/E ("Supplemental Instructions"). Supplemental Instructions may either be interpretations or additional information but shall not change the GMP or Contract Time without an executed Change Order. Requests for interpretation of intent of the Contract Documents shall be directed to the A/E for the A/E's interpretation with a copy to the Owner's Representative. Interpretations shall be consistent with and reasonably inferable from the Contract Documents. The CMAR is responsible to request interpretations and clarifications for those matters which appear to be inconsistencies, ambiguities, inaccuracies, or omissions in the Contract Documents. The CMAR shall complete the Work in accordance with the decision, clarification, or interpretation provided to CMAR.
- 125 Where a reference in the Contract Documents to an American Society for Testing and Materials standard, American National Standards Institute standard, federal Specification, or other recognized standard does not include the date of the standard, the edition current as of the date of the Contract Documents shall apply. The Owner's Representative or A/E will give no consideration to claimed ignorance as to what a cited standard contains, since each tradesman is considered to be experienced and familiar with the required standards of quality and workmanship for his own trade. Requirements for such reference standards form a part of the Specification to the extent indicated by the references thereto. When provisions of a reference standard conflict with provisions in the Specifications, the Specifications shall govern.
- 1.2.6 The general character and scope of the Work is called for by the Contract Documents. Where a portion of the Work is fully drawn and the remainder is merely indicated, the portion fully drawn shall apply to all same parts of the Work. Drawings intended primarily as information for one trade may not necessarily show the Work of the other trades, but this shall not be construed as indicating there are not other related materials or adjacent Work.
- 1.2.7 Figured dimensions shall be followed. In the event of discrepancies between dimensions, or between drawings, the intent shall be interpreted by the A/E which shall be binding on the CMAR. Where a dimension may be missing, the Work shall be accomplished in accordance with the directions and dimensions provided by the A/E. Dimensions on drawings, as well as detailed drawings themselves, are subject in every case to measurements of planned, existing, adjacent, incorporated, or completed Work, which shall be taken by the CMAR before undertaking any Work. Any and all dimensions pertaining to the Work or its installation shall be verified at Site by the CMAR.

- 1.2.8 Where the Specifications are of the abbreviated or streamlined type, they shall be construed as complete sentences, as shall notes on the drawings. Omissions of words such as "the," "the CMAR shall," or "shall be" are to be supplied by inference. The words "symmetrical" and "similar" are used in the general sense and do not need to mean identical. Where a number is specified (as for gauges, weights, temperatures, and amount of time, and similar references), and the specified number cannot be obtained, the number shall be interpreted as the next better, as available.
- 1.2.9 The CMAR shall examine all Contract Documents and use all Specifications and drawings for the Project, including those that may primarily pertain to other Work which the CMAR normally does not perform with CMAR's own forces. The CMAR shall use all of the Project drawings and Specifications for a complete understanding of the Project and CMAR's Work; to determine the type of construction and systems; for coordination; to determine what other Work may be involved throughout; to anticipate and notify others when their coordinated efforts will be required; and all other relevant matters related to the Project and the CMAR's Work. The CMAR shall also be bound by all the requirements to complete CMAR's Work, that are applicable to, pertain to, or affect CMAR's Work, as may be shown or reasonable inferable from the drawings and Specifications.
- 1.2.10 Whenever a provision of the drawings or Specifications conflicts with agreements or regulations in force among members of trade associations, unions, or councils which regulate or distinguish what Work shall or shall not be included in the Work of a particular trade, the CMAR shall make all necessary arrangements to reconcile such conflict in accordance without delay, damage, or cost to the Owner and without any recourse or ramification to the A/E or the Owner's Representative. In case progress of the Work is affected by undue delay in furnishing or installing items of material or equipment required under the Contract Documents because of a conflict involving such agreement or regulations, the A/E may require that other material or equipment of equal kind and quality be provided At No Additional Cost to the Owner, provided however, that CMAR shall bear such responsibility for drawings and Specifications that are in existence and tendered to CMAR prior to the date of execution of the Agreement and responsibility of those that are thereafter created.
- 1.2.11 The CMAR shall keep a copy of the drawings, Addenda, Change Orders, Work Directives, and all related sketches and Specifications on the Work Site, and shall at all times give the Owner's Representative and the A/E access thereto. Anything mentioned in the Specifications and not shown on the drawings or shown on the drawings and not mentioned in the Specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and Specifications, the Specifications shall govern.

- 1.2.12 In case of differences between small-scale and large-scale drawings, the large-scale drawings shall govern. Schedules on any contract drawing shall take precedence over conflicting information on that or any other contract drawing.
- 1.2.13 In case of discrepancy, either in the figures, in the drawings, or in the Specifications, this matter shall be promptly submitted to the A/E who shall promptly make a determination in writing. Any action or inaction by the CMAR without A/E's determination shall be at CMAR's own risk and at CMAR's Sole Cost and Expense.
- 1.2.14 Where the word "similar" occurs on the drawings, it shall have a general meaning and not be interpreted as being identical, and all details shall be worked out in relation to their location and their connection with other parts of the Work.
- 1.2.15 Standard details are applicable when listed, noted on the drawings, or referenced elsewhere in the Specifications. Where the notes on the drawings indicate modifications, such modifications shall govern.
- 1.2.16 In case of difference between any standard detail and the Specifications, the Specifications will govern.
- 1.2.17 Upon request, the CMAR shall make available at the Project Site within a reasonable time, a copy of each trade manual and standard which is incorporated by reference in the Contract Documents and which govern quality and workmanship.
- 1.2.18 The CMAR will be furnished additional instruction and detail drawings as necessary to carry out the Work included in the Agreement. It shall be the CMAR's obligation to check the Contract Documents and to timely request from A/E any clarification necessary so as not to delay the progress of the Work.

1.3 OWNERSHIP AND USE OF DOCUMENTS

- 1.3.1 The copies of all drawings and Specifications furnished to the CMAR are and shall remain the property of the A/E and the Owner. They are to be used only with respect to this Project and are not to be used on any other project. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the A/E's or the Owner's common law copyright or other reserved rights. All copies except one (1), which copy shall be retained by the CMAR as a contract record set, shall be returned or suitably accounted for, to the A/E, on request, upon Substantial Completion of the Work.

ARTICLE 2 - OWNER'S RIGHT TO STOP WORK

- 2.2.1 If the CMAR fails to correct Work which is not strict conformance with the Contract Documents, fails to supply materials or equipment which is not in strict conformance with the Contract Documents, does not allow others sufficient time to perform their Work, or otherwise fails to carry out the Work in accordance with the Contract Documents ("Defective Work"), the Owner's Representative may order the CMAR, by written or telegraphic notice, to stop the Work, or any portion therefor, until the cause for such order has been eliminated.

ARTICLE 3 - A/E'S ROLE DURING CONSTRUCTION

- 3.1.1 The A/E shall, at all times, have unlimited access to the Work.
- 3.1.2 The A/E will be the interpreter of the requirements of the drawings and Specifications. The A/E will, within a reasonable time, render such interpretations as are necessary for the proper execution or progress of the Work.
- 3.1.3 All interpretations of the A/E shall be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings.
- 3.1.4 The A/E's decision in matters relating to artistic effect will be final if consistent with the intent of the Contract Documents.
- 3.1.5 The A/E and Owner's Representative will have the authority to reject Work which does not conform to the Contract Documents. Whenever, in A/E's and/or Owner's Representative's opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, they have the authority, but not the obligation, to require special inspection or testing of the Work whether or not such Work is fabricated, installed, or completed. However, neither their authority to act under this Subparagraph nor any decision made by the A/E and/or Owner's Representative either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the A/E or Owner's Representative to the CMAR, any Subcontractor, any of their agents or employees, or any other person performing any of the Work.
- 3.1.6 The A/E will review and return with or without exceptions or take other

appropriate action upon CMAR's submittals such as Shop Drawings, Product Data, and Samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. The A/E's review and response to the submittal of a specific item shall not indicate review or a response to an assembly of which the item is a component.

- 3.1.7 The A/E, along with the Owner's Representative, will conduct inspections to determine the Dates of Completion and will receive written warranties and related documents required by the Contract Documents and assembled by the CMAR.

ARTICLE 4 - CMAR'S OBLIGATION TO STOP SUBCONTRACTOR WORK

- 4.1 If a Subcontractor fails to correct Defective Work, persistently fails to supply materials or equipment required for the Project, does not allow others sufficient time to perform their Work, or otherwise is in substantial violation of its subcontract with the CMAR, the CMAR shall order the Subcontractor, by written or telegraphic notice, to stop its Work, or any portion thereof, until the cause for such order has been eliminated, the CMAR supplements the Subcontractor's forms, or the Subcontractor is terminated and replaced by CMAR.
- 4.2.1 All contracts between the CMAR and its Subcontractors will provide that: any trade Subcontractors causing stoppage of Work not attributable to the cause of the Owner or CMAR will be liable for all additional costs incurred by the CMAR and the Owner as a result of the Work stoppage. CMAR shall be liable to the Owner for delays or other damages resulting from a stoppage of Work not caused by the Owner or A/E.

ARTICLE 5 — OTHER CMAR DUTIES AND RESPONSIBILITIES

5.1 [INTENTIONALLY OMITTED]

5.2 REVIEW OF CONTRACT DOCUMENTS

- 5.2.1 The CMAR shall review the information furnished by the Owner's Representative and/or the A/E to ascertain the requirements of the Work. The CMAR shall comply with the true intention and meaning of the Contract Documents taken as a whole. Obtaining any additional information required to perform the detailed engineering (e.g. Shop Drawings pursuant to performance Specifications provided by the A/E), procurement, and construction Work is the responsibility of the CMAR.
- 5.2.2 The CMAR shall carefully study and compare the Contract Documents and shall promptly report to the A/E and Owner's Representative any error, inconsistency, or omission the CMAR may discover. The CMAR shall be liable for damage resulting from errors, inconsistencies, or omissions in the

Contract Documents where the CMAR recognized or, as a prudent and experienced contractor, should have recognized such error, inconsistency, or omission and failed to report it to the A/E and Owner's Representative. If the CMAR performs any construction activity knowing that it involves or that, as a prudent and experienced contractor, should have known involves a recognized error, inconsistency, or omission in the Contract Documents without such notice to the Owner's Representative, the CMAR shall assume full responsibility therefore and shall be at the CMAR's Sole Cost and Expense.

- 5.2.3 The CMAR shall carefully examine the Contract Documents comparing them against all final vendor drawings to determine engineering compatibility. Any changes to the Contract Documents which are necessitated by information generated by final vendor drawings will be reported immediately to the A/E.
- 5.2.4 The CMAR shall perform no portion of the Work at any time without Contract Documents or, where required, returned without exceptions Shop Drawings, Product Data, or Samples for such portion of the Work. The CMAR will, at all times during the course of the Work, maintain a complete set of approved returned without exceptions Shop Drawings, Product Data, and Samples on-Site and available for inspection.

5.3 SUPERVISION AND CONSTRUCTION PROCEDURES

- 5.3.1 *[INTENTIONALLY OMITTED]*
- 5.3.2 The CMAR shall be solely responsible for all construction means, methods, techniques, sequences, procedures, and safety employed, undertaken and occurring for the Work, as well as solely responsible for coordinating all portions of the Work under the Contract Documents.
- 5.3.3 The CMAR shall be responsible to the Owner for the acts and omissions of CMAR's representatives, agents, employees, subcontractors, suppliers and each of their representatives, agents, and employees, and other persons performing any of the Work directly or indirectly under any request from or contract with the CMAR or claiming by, through, or under CMAR and for any damages, losses, costs, and expenses resulting from such acts or omissions. It is understood and agreed that the relationship of CMAR to the Owner shall be that of an independent contractor. Nothing contained herein or inferable herefrom shall be deemed or construed to (1) make CMAR the agent, servant, or employee of the Owner or (2) create any partnership, joint venture, or other association between Owner and CMAR. Any direction or instruction by Owner's Representative in respect of the Work shall relate to the results that the Owner desires to obtain from the Work and shall in no way affect CMAR's independent contractor status and obligation to perform the Work

in strict conformance with the Contract Documents as described herein. CMAR shall prevent any of its employees from representing himself or herself to be an employee or agent of the Owner. CMAR, and CMAR's Subcontractors and their officers, employees, agents, or subcontractors shall have no authority and shall not represent that they have any authority to execute documents on behalf of the Owner or otherwise assume or incur any obligation of any kind whatsoever in the name of or on behalf of the Owner.

- 5.3.4 CMAR has the responsibility to ensure that all its material suppliers and Subcontractors, their agents, and employees adhere to the Contract Documents, and that they order materials on time, taking into account the current market and delivery conditions and that they provide materials on time. CMAR shall coordinate its Work with that of all others on the Project including deliveries, storage, installations, and construction utilities and Separate Contractors hired directly by the Owner.
- 5.3.5 CMAR shall be responsible for scheduling and field coordination of the Work of public authorities and the contractors of public authorities with the Work (such as utility connections, streetscape, etc.)
- 5.3.6 Neither observations nor inspections, tests, approvals, or returns without exception by persons other than the CMAR shall relieve the CMAR from CMAR's obligations to perform the Work in accordance with the Contract Documents.
- 5.3.7 The CMAR shall employ a full-time, competent superintendent on the Project ("CMAR's Senior Project Manager"), and the other staff members designated by the Contract Documents, and such other personnel as are necessary for the prompt and satisfactory completion of the Work. The CMAR's Senior Project Manager shall be assigned to this particular Project only and not responsible for other projects away from this Site unless otherwise approved in writing by Owner's Representative.
- 5.3.8 The CMAR's Senior Project Manager shall represent the CMAR and all communications given to the CMAR's Senior Project Manager shall be as binding as if given to the CMAR. Communications between the Owner's Representative and the CMAR shall be in writing. Verbal instructions affecting the scope of the Work, the construction schedule, design revisions, or personnel shall be verified in writing and, where appropriate, by Change Order. The CMAR's Senior Project Manager shall have such duties as are prescribed elsewhere in the Contract Documents.
- 5.3.9 The CMAR's Senior Project Manager and other staff members required by the Contract Documents shall be in attendance at the Project Site during the progress of the Work and shall be responsible for coordinating, supervising, and monitoring the Work at the Site on behalf of the CMAR. The CMAR's

Senior Project Manager and all other required and necessary staff members shall be satisfactory to the Owner's Representative and shall not be changed except: with the prior written consent of the Owner's Representative; if the Owner's Representative demands the CMAR's staff members' removal from the Project; or the CMAR's Senior Project Manager and/or other staff members cease to be employed by the CMAR.

- 5.3.10 Unless otherwise specifically approved by the Owner's Representative, the CMAR's Senior Project Manager shall be constantly present on-Site during all working hours from start to Substantial Completion of the Work, including those times when only minor activity is in progress.
- 5.3.11 If the CMAR must interrupt existing utilities to complete the Work, such interruption shall be scheduled with written notice to the Owner's Representative and A/E and done at a time designated by the Owner's Representative.
- 5.3.12 The CMAR shall promptly notify the Owner's Representative and A/E, in writing, of any facts or conditions, which would affect the CMAR's ability to meet the completion dates for each phase and/or activity of the Work. If the CMAR fails to maintain the progress necessary for the completion of each phase and/or activity as required by the terms of the Contract Documents, the Owner shall have all of the rights and remedies provided by the Contract Documents. Notwithstanding such rights and remedies, upon any such failure, the CMAR shall, upon written notice by the Owner's Representative and At No Additional Cost to the Owner, work such additional hours and/or furnish such additional personnel, equipment, and support facilities for such a period of time to regain and thereafter maintain the progress required by the Contract Documents.
- 5.3.13 [INTENTIONALLY OMITTED]
- 5.3.14 The CMAR shall do and be responsible for the correct laying out of the Work in accordance with the Contract Documents, including all necessary leveling and checking. The CMAR shall check the established grades and benchmarks and shall lay out all partition lines and other significant reference lines or points which will enable them to accurately place their boxes, sleeves, openings, conduits, pipes, ducts, controls, hangers, inserts, and other devices.
- 5.3.15 When the Contract Documents state that an item of the Work must be installed or applied according to manufacturer's instructions, or words to that effect, the CMAR shall install or apply the item so that the quality of the installation or application shall be at least equal to that obtainable by strict conformance with the manufacturer's instructions. In addition, prior to the installation or application, the CMAR shall furnish the

A/E with three (3) copies of the manufacturer's instructions.

- 5.3.16 The CMAR shall use only established streets or, in absence thereof, may, with the Owner's Representative's prior written consent, construct temporary roadways. Vehicles shall not be loaded beyond capacity prescribed by any national, state, or local law, regulation, or ordinance. When it is necessary to cross curbs or sidewalks that will not be removed, protection against damage shall be provided by the CMAR and any damaged roads, curbs, sidewalks, or signs shall be replaced or repaired by the CMAR At No Additional Cost to the A/E or the Owner.
- 5.3.17 The CMAR shall be responsible for maintaining CMAR's finished Work in acceptable condition until the Owner assumes custody by written Certificate of Acceptance of the finished Work and shall repair any injury or damage that said Work may sustain from any cause prior to the Owner's acceptance of the Work.
- 5.3.18 Unless otherwise agreed, upon Substantial Completion or termination of the Work, the CMAR shall promptly remove all of CMAR's equipment, tools, temporary structures, utilities, and supplies from the Project Site; failing to do so shall grant the Owner the right to remove and place in storage such equipment and supplies At No Additional Cost to the Owner. Any and all costs incurred by the Owner pursuant to this paragraph shall be immediately payable from the CMAR to the Owner.
- 5.3.19 The CMAR shall be responsible for supplying the necessary supervision to assist the Owner in starting up and learning to operate and maintain the particular systems as outlined in the Contract Documents.

5.4 LABOR

- 5.4.1 The CMAR shall at all times enforce strict discipline and good order among CMAR's employees and any other person carrying out the Work, shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him or her, and, at the Owner's Representative's request, shall remove such person(s) from the Work. Obnoxious behavior or possession or consumption of alcoholic beverages or drugs on the Site is strictly prohibited. Violators shall be promptly discharged from the Site. The CMAR shall adopt and implement policies and practices designed to avoid work stoppages, slow downs, disputes, or strikes where reasonably possible under the circumstances to maintain Project-wide labor harmony.
- 5.4.2 The CMAR agrees to maintain an adequate force of experienced workers and the necessary materials, supplies, and equipment to meet the requirements of the Contract Documents.

5.5 WARRANTIES

- 5.5.1 The CMAR warrants to the Owner's Representative and the A/E that all materials and equipment furnished under the Contract Documents shall be new and that all Work shall be of good quality consistent with the Work Specifications, free from any and all faults and defects, and in full conformance with the Contract Documents. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may, at the A/E's and/or the Owner's Representative's discretion, be considered "Defective Work." If required by the Owner's Representative or the A/E, the CMAR shall furnish satisfactory evidence as to the kind and quality of materials and equipment supplied.
- 5.5.2 The warranty of materials, equipment, and workmanship defined in the Subparagraph above is separate from, independent of, and in addition to, any other guarantees any other warranties required by the Contract Documents.
- 5.5.3 The CMAR, prior to or at the Date of Final Completion for the Work and during administrative closeout of the Agreement, (or upon approval of Shop Drawings by A/E if done at that time) shall submit one (1) copy of all specified warranties and guarantees to the A/E and Owner's Representative for review, approval, and subsequent transmittal to Owner's Representative.
- 5.5.4 Warranties and guarantees, including those specified in excess of the general one (1) year guarantee, shall be complete for all specific materials, systems, sub-systems, equipment, appliances, and Products specified and required by the Contract Documents. Warranties and guarantees shall clearly define what is to be guaranteed; the extent, terms, conditions, time, and effective dates.
- 5.5.5 The CMAR shall cause any warranty, which is given by any person supplying materials or equipment for the Work, to extend to and for the benefit of the Owner. Any purchase order or requisition form used by the CMAR in connection with the Work shall require the supplier to specifically extend any such warranty to the Owner as required hereby.
- 5.5.6 Warranties shall not commence to run until the Owner and/or Owner's Representative: a) accepts the Work for Substantial Completion, b) is in possession of all the specified guarantee/warranty documentation, and c) has received the specified training for the operation and maintenance of the system/equipment.
- 5.5.7 If the CMAR, after notice, fails to proceed within seventy-two (72) hours to commence and continue to comply with the terms of the guarantee, the Owner's Representative may have the defect corrected, in which case the CMAR and CMAR's Surety shall be liable for all expenses incurred.

- 5.5.8 In addition to all other warranties and guarantees, The CMAR shall warrant for a period of one (1) year that the building(s) shall be watertight and leakproof at every point and in every area, except where leaks can be attributed to damage to the building(s) by external forces beyond CMAR's control, Owner's activities, or design errors of the A/E. CMAR shall, immediately upon notification by Owner's Representative of water penetration, determine the source of water penetration and if applicable, at CMAR's Sole Cost and Expense, perform any Work necessary to make the building(s) watertight.

5.6 PRODUCT SUBSTITUTIONS

- 5.6.1 Except as provided in section 5.6.2, product, material, and equipment submittals shall include only that which has been specified in the Contract Documents.
- 5.6.2 The A/E will consider proposals for alternate products, materials, or equipment when will consider CMAR's request for substitution when the following conditions are satisfied. If the following conditions are not satisfied, Architect will return requests without action, except to record noncompliance with these requirements:
- A. The requested substitution offers the Owner a substantial advantage in cost, time, energy conservation, or other considerations, after deducting additional responsibilities the Owner must assume as a result of the substitution. The Owner's additional responsibilities may include compensation to Architect for redesign and evaluation services, increased cost of other construction by Owner, and similar considerations.
 - B. The requested substitution does not require extensive revisions to the Contract Documents.
 - C. The requested substitution is consistent with the Contract Documents and will produce indicated results.
 - D. The substitution request is fully documented and properly submitted.
 - E. The requested substitution will not adversely affect the Project Baseline Schedule, as updated.
 - F. The requested substitution has received necessary approvals of authorities having jurisdiction.
 - G. The requested substitution is compatible with other portions of the Work.
 - H. The requested substitution has been coordinated with other portions of the Work.

- I. The requested substitution provides a specified warranty and otherwise complies with the warranty and guarantee requirements of the Contract Documents.
- J. If the requested substitution involves more than one contractor, requested substitution has been coordinated with other portions of the Work, is uniform and consistent, is compatible with other products, and is acceptable to all contractors involved.
- K. Any additional cost, or any loss or damage arising from the substitution or proposed substitution of any material, equipment or method for those originally specified shall be borne by the CMAR.

5.6.3 Notwithstanding anything set forth in section 5.6.2, no substitutions for specified materials will be allowed, under any circumstances, for membrane roofing systems, detention Equipment, or security electronics systems.

5.7 ALLOWANCES

- 5.7.1 The CMAR shall include in the GMP all allowances stated in the Contract Documents. Items covered by these allowances shall be supplied for such amounts and by such persons as the A/E or Owner's Representative may direct.
- 5.7.2 Unless otherwise provided in the Contract Documents, these allowances shall cover the cost to the CMAR of the materials and equipment required by the allowance delivered at the Site and all applicable taxes, unloading, handling, labor, installation costs, and other expenses contemplated for the original allowance. The CMAR's Direct Costs shall be included in the GMP and not in the allowance.
- 5.7.3 Whenever the actual cost is more than or less than the stated allowance, the GMP may be adjusted accordingly by Change Order.

5.8 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS

- 5.8.1 Except as specifically stated otherwise in the Contract Documents, as part and parcel of the CMAR's Direct Costs, the CMAR shall obtain and pay for all permits, fees, licenses, or other charges required or bearing on the conduct of the Work, including connections to water, sewer, or other utilities.
- 5.8.2 The CMAR shall give all notices and comply with all applicable laws, codes, ordinances, rules, regulations, and lawful orders of any public authority having jurisdiction which bears on the performance of the Work with respect to construction means and methods as opposed to design. In all cases,

the latest edition or revision thereof and any amendments or supplements thereto in effect during the performance of the Work shall apply.

5.8.3 The CMAR will review with the Owner's Representative all new laws, statutes, codes, regulations, and permits which have been enacted after the date for receipt of bids prior to proceeding with any Work affected thereby.

5.8.4 If the CMAR performs any Work that it knows or should reasonably have known, is contrary to such laws, ordinances, codes, regulations, and permits, as in effect during the performance of the Work, without written notice to the Owner's Representative, the CMAR shall assume full responsibility therefore and shall bear any and all costs attributable thereto.

5.9 INTENTIONALLY OMITTED

5.10 DRAWINGS AND SPECIFICATIONS AT THE SITE

5.10.1 The CMAR shall maintain at the Site, for CMAR's use and that of the Owner's Representative and the A/E, one (1) copy of all drawings, Specifications, Addenda, Change Orders, and other modifications, and reviewed Shop Drawings and Samples, in good order and marked currently to record all changes made during construction. The CMAR shall mark each drawing as the Work shown thereon is completed in the field, revising any or adding lines, dimensions, elevations, depths, notes, or any other information required to accurately record "As-built" conditions.

5.10.2 The CMAR shall also keep at the site at all times a separate and complete set of blackline prints of the Drawings and Specifications, reviewed Shop Drawings and coordination drawings on which shall be noted neatly, accurately and promptly, as the Work progresses: (a) the progress of the Work installed by coloring in all pipe lines, ducts and apparatus as constructed or installed, (b) the actual installed locations of all equipment, fixtures, piping, duct work, conduit, valves, switches, strainers and other control devices and specialty items, (c) all revisions to the plumbing, electrical, HVAC work and other work, wherever such work is installed other than exactly as shown on the Drawings (or the reviewed Shop Drawings or coordination drawings) or as described in the Specifications (with approval as required pursuant to the Contract Documents), (d) the coordinates and elevations of all subsurface utilities installed or encountered by the Contractor which are not indicated in the Contract Documents and the inverts and rim elevations of utility structures installed by the Contractor, (e) the actual installed locations of piles, caissons, pile caps and other concealed foundation elements, and (f) all approved revisions to structural details which differ from the approved Shop Drawings. The CMAR shall be responsible for assuring that the progress of the Work and the actual installed locations and revisions as specified above are delineated by the specific trades involved. The record As-built Drawings shall be prepared

and maintained in red line format. The Owner, the Owner's Representative, and the A/E shall have access to such record As-built Drawings at all times.

5.10.3 These "As-built" drawings and Specifications, marked to record all changes during construction, and approved Shop Drawings, Product Data sheets, and Samples shall be delivered to the A/E, for the Owner, upon Substantial Completion of the Work. Furnishing of the As-built drawings and Specifications will be carried on the punchlist with a value determined appropriate by the Owner's Representative and Program Manager.

5.10.4 Failure to maintain record as-built Drawings as required by Contract Documents may result in withholding of progress payments to the CMAR. Final payment to each Subcontractor shall not be due and payable until the Subcontractor has furnished to the CMAR complete record as-built Drawings in accordance with the Contract Documents for all of the Subcontractor's work.

5.11 SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

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

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

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

5.11.4 The CMAR shall review and submit to the A/E with reasonable promptness and in such sequence as to cause no delay in the Work or in the Work of any Separate Contractor, all Shop Drawings, Product Data, and Samples required by the Contract Documents.

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

5.11.6 Approval or return of the CMAR's submittals without exceptions does not constitute a complete check, but indicates only that design, general method of construction, and detailing appears satisfactory. The CMAR shall not be

relieved of responsibility for any deviation from the requirements of the Contract Documents by the A/E's approval or return of Shop Drawings, Product Data, or Samples returned without exceptions. The CMAR shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data, or Samples by the A/E's review and response thereto, regardless of the verbiage used in such response.

5.11.7 The CMAR shall direct specific attention, in writing, on resubmitted Shop Drawings, Product Data, or Samples, to revisions to such submittals.

5.11.8 The CMAR shall resubmit submittals, as required, until A/E's return without exceptions is obtained. No Work requiring submittals shall be executed until A/E has returned the submittals without exceptions. No portion of the Work requiring submission of Shop Drawings, Product Data, or Samples shall be commenced until the submittal has been returned by the A/E without exceptions. All such portions of the Work shall be in accordance with submittals returned without exceptions; however, notwithstanding the foregoing, this shall not relieve CMAR of its responsibility to perform the Work in strict conformance to the Contract Documents. The CMAR is responsible for seeing that only copies of Shop Drawings bearing returned by the A/E without exceptions (with or without conditions) are allowed on the Site.

5.11.9 The CMAR shall prepare a schedule of required submittals no later than fourteen (14) days after the Owner's execution of the Agreement. The schedule of required submittals shall include a complete list of items requiring Shop Drawings, brochures, catalog cuts, etc., to be returned without exception by the A/E. The schedule of required submittals is to be submitted on a form approved by the A/E. The schedule of required submittals shall be updated monthly or as required by the A/E or Owner's Representative. All Shop Drawings and other submittals shall be accompanied by a transmittal letter and reference should be indicated to the item numbers of the above-mentioned schedule of required submittals.

5.11.10 For detailed requirements for submission of Shop Drawings, Product Data, and Samples, refer to Article 16 - General Requirements.

5.12 USE OF SITE

5.12.1 The CMAR shall confine operations at the Site to areas designated by the Owner's Representative, permitted by law, ordinances, permits, and by the Contract Documents, and shall not unreasonably encumber the Site with any materials, equipment, or debris. The CMAR shall not use any of the Owner's facilities except with the prior written approval of the Owner's Representative. The CMAR understands and agrees the Site is located in a downtown urban area, which will require the CMAR to take great care in

accessing and using the Site, as well as exercising great care in protecting the public at large from the Work ongoing on and around the Project Site.

5.12.2 The CMAR shall coordinate all of CMAR's operations with the Owner's Representative and obtain Owner's Representative's approval before using any portion of the Site. The CMAR shall comply with the Owner's Site utilization plan, if any.

5.12.3 Refer to Article 16 - General Requirements for additional clauses concerning use of the Site.

5.13 CUTTING AND PATCHING OF WORK

5.13.1 The CMAR shall be responsible for all cutting, coring, fitting, or patching that may be required to complete the Work or to make its several parts fit together properly. The CMAR shall provide protection of existing Work.

5.13.2 The CMAR shall not damage or endanger any portion of the Work of the Owner or any Separate Contractors of the Owner ("Separate Contractor(s)") by cutting, patching, or otherwise altering any Work, or by excavation. The CMAR shall not cut or otherwise alter the Work of the Owner or any Separate Contractor without the prior written consent of the Owner's Representative.

5.13.3 The CMAR shall not disturb any existing structure, piping, apparatus, or other Work unless expressly required by the Contract Documents. Where cutting, drilling, or removals are required in existing walls, floors, or roof construction, the Work shall be done in a manner that will safeguard and not endanger the structure, and shall in all cases be as approved by the Owner's Representative and A/E. Prior to any cutting, drilling, or removals, the CMAR shall investigate both sides of the surface involved, shall determine the exact location of adjacent structural members by visual examination, and shall avoid interference with such members.

5.13.4 Cost resulting from ill-timed cutting and patching shall be borne by the party responsible and shall not be the CMAR's basis for claims for additional compensation.

5.13.5 For the detailed requirements for cutting and patching, refer to Article 16 – General Requirements.

5.14 CLEANING UP

5.14.1 At all times during the Work, the CMAR shall keep the Site and any areas adjacent to the Site free and clear from accumulation of waste materials or rubbish caused by the Work.

5.14.2 The CMAR, at the Substantial Completion of the Work, shall perform all cleaning to leave the Work thoroughly clean as required by the Contract Documents. The CMAR shall also remove all of CMAR's waste materials and rubbish from and about the Project as well as neatly store all tools, construction equipment, machinery, and surplus materials.

5.14.3 If the CMAR fails to maintain the premises or clean up as specified, the Owner may do so (and in the first such instance after notice and reasonable opportunity to cure) the cost thereof shall be charged to the CMAR and such charge shall not be deemed to be a Cost of the Work.

5.14.4 For detailed procedures for clean up, refer to Article 16 - General Requirements.

5.15 COMMUNICATIONS

5.15.1 The CMAR shall forward all communications to the Owner through the Owner's Representative.

5.15.2 All written correspondence to the Owner's Representative shall be dated, numbered sequentially, identified by topic, signed by the CMAR or CMAR's authorized representative, and shall contain a reference by sequential number of all prior correspondence by any party addressing the same subject matter.

5.16 SUBCONTRACTOR OR VENDOR CLAIMS

5.16.1 The CMAR shall pay promptly, or cause to be paid promptly, all claims for services, labor, and materials relating to the Work. The CMAR shall keep, and cause to be kept, the Owner's property free from claims, or encumbrances of Subcontractors, mechanics, laborers, and others, and shall discharge the same as soon practicable, but in no event later than the date of Final Completion and acceptance. The Owner may retain out of any money due or to become due to the CMAR from the Owner, an amount sufficient to satisfy any such liens, claims, or encumbrances until the Owner's Representative is furnished satisfactory evidence that all liens, claims, and encumbrances have been discharged or satisfied. Should there prove to be any such lien, claim, or encumbrance after all money due from the Owner to the CMAR has been paid or expected to be paid, the CMAR shall immediately reimburse the Owner all monies paid by the Owner in discharging or satisfying any such lien, claim, or encumbrance.

5.17 ROYALTIES AND PATENTS

5.17.1 The CMAR shall pay all royalties and license fees. The CMAR shall defend suits or claims for infringement of patent rights and shall hold the Owner

and A/E harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process, or Product of a particular manufacturer or manufacturers is required by the Contract Documents. However, if the CMAR has reason to believe that the required design, process, or Product is an infringement of a patent; the CMAR shall be responsible for such loss unless such information is promptly furnished in writing to the A/E.

ARTICLE 6 – SUBCONTRACTORS

6.1 DEFINITION

- 6.1.1 A “Subcontractor” is a person or organization who has a direct contract with the CMAR to perform any of the Work at the Site or to furnish materials, equipment, or systems specifically fabricated for the Work. The term Subcontractor is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or Subcontractor’s authorized representative.
- 6.1.2 A “Sub-subcontractor” is a person or organization who has a direct or indirect contract with a Subcontractor to perform any of the Work at the Site or to furnish materials, equipment, or systems specifically fabricated for the Work. For purposes of the Contract Documents, the term Subcontractor includes a Sub-subcontractor or an authorized representative thereof.
- 6.1.3 Nothing contained in the Contract Documents shall create any contractual relationship between the Owner or A/E and any Subcontractor or Sub-subcontractor.

6.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

- 6.2.1 The CMAR shall conduct all bidding where required, prepare all subcontract documents or purchase agreements and furnish to the Owner’s Representative, in writing, the names of the persons or entities proposed for each of the principal portions of the Work, including all Subcontractors, Sub-subcontractors and major material and equipment suppliers (A “Major Supplier” is any supplier providing materials or equipment with a single or aggregate cost to the job of more than \$10,000). The Owner’s Representative will notify the CMAR, in writing, if the Owner’s Representative objects to any proposed Subcontractor or supplier or entity. Failure of the Owner’s Representative to reply shall constitute notice of no reasonable objection. CMAR shall make Subcontractors’ and Major Suppliers’ bids available to Owner’s Representative for review. CMAR shall furnish such evidence as to experience and reliability of any proposed Subcontractor or Major

Supplier as Owner's Representative may require. Review by Owner's Representative of a Subcontractor, Major Supplier, or other party shall in no way limit responsibility of CMAR to furnish materials, Products, and equipment in conformance with the requirements of the Contract Documents.

- 6.2.2 The proposed Subcontractors or Major Suppliers shall be established, reputable firms of recognized standing with a record of successful and satisfactory past performance with the type of Work and/or items proposed to be provided or furnished by them. Where specifically named Subcontractors or suppliers may be specified for certain portions of the Work, only the specified Subcontractor or supplier will be acceptable for those parts of the Work.
- 6.2.3 The right to reject any Subcontractor, Sub-subcontractor, or Major Supplier will be exercised by the Owner's Representative when, in Owner's Representative's opinion, it is believed the proposed Subcontractor, Sub-subcontractor, or Major Supplier: (1) cannot provide, or proposes deviations in, materials, equipment systems, methods, facilities, or other Work as required by the Contract Documents; (2) cannot provide labor and skill necessary to accomplish the part of the Work for which the Subcontractor, Sub-subcontractor, or Major Supplier is proposed, including but not limited to quality of workmanship; (3) lacks experience appropriate to the proper execution and completion for that part of the Work for which the Subcontractor, Sub-subcontractor, or Major Supplier is proposed; (4) has previously failed to perform satisfactorily, including cooperation and necessary services after project Final Completion; (5) cannot satisfactorily perform the part of the Work for which the Subcontractor, Sub-subcontractor, or Major Supplier is proposed; (6) cannot demonstrate the ability through examples of representative work, to perform the Work for which the Subcontractor, Sub-subcontractor, or Major Supplier is being considered; (7) is of questionable integrity; or (8) there are other considerations bearing on the suitability of a proposed Subcontractor, Sub-subcontractor, or Major Supplier.
- 6.2.4 The CMAR shall not contract with any such proposed person or entity to which the Owner's Representative has made objection under the provision of Subparagraph 6.2.3.
- 6.2.5 The CMAR shall not be entitled to any increase in the GMP or adjustment to the Contract Time as result of Owner's Representative's objection under the provision of Subparagraph 6.2.3.
- 6.2.6 The CMAR shall not make any substitution for any Subcontractor, Sub-subcontractor, Major Supplier, or person or organization that has been accepted by the Owner's Representative, except for just cause acceptable to the Owner's Representative. In the event of a proposed change, the CMAR

shall submit, in writing, the reasons for the change and the proposed substitutions and basis for identifying a substitute.

- 6.2.7 If labor or other difficulties develop as a result of the existence of any contract or subcontract or a Subcontractor is deemed to be detrimental to either the progress of the Work as a whole or to the Owner's operations, the CMAR shall immediately terminate said contract and make other arrangements to perform its obligations hereunder.

6.3 SUBCONTRACTUAL RELATIONS

- 6.3.1 By an appropriate agreement, the CMAR shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the CMAR by the terms of the Contract Documents, and to assume toward the CMAR all the obligations and responsibilities which the CMAR, by these Contract Documents, assumes toward the Owner, or the A/E. All subcontract agreements for a portion of the Work shall preserve and protect the rights of the Owner and the A/E under the Contract Documents with respect to the Work to be performed by the Subcontractor. Where appropriate, the CMAR shall require each Subcontractor to enter into similar agreements with its Sub-subcontractors. The CMAR shall make available to each proposed Subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Subparagraph and shall identify to the Subcontractor any terms and conditions of the proposed subcontract which may be at a variance with the Contract Documents. Each Subcontractor shall similarly make copies of the Contract Documents available to its Sub-subcontractors. Prior to executing any subcontract, the CMAR shall present its standard form subcontract to the Owner's Representative for written approval of the Owner's Representative. Once approved by the Owner's Representative, the CMAR shall not alter the standard form subcontract.
- 6.3.2 The CMAR shall continue to be fully responsible to the Owner for the proper, complete, and timely execution of all Work covered by the Agreement, even after a portion of such Work has been contracted to a Subcontractor acceptable to the Owner's Representative. Prior to awarding any contract, the CMAR shall assure itself that the Subcontractor is thoroughly familiar with the conditions under which Subcontractor's portion of the Work is to be performed and the Subcontractor's proposal to the CMAR includes all labor, material, and appurtenances necessary to complete CMAR's portion of the Work in accordance with the Contract Documents.
- 6.3.3 The CMAR shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the CMAR by the terms of the Contract Documents, to require Subcontractors to comply with the

Contract Documents, and to give the CMAR the same power as regards terminating any subcontract that the Owner's Representative may exercise over the CMAR under any provision of the Contract Documents. The CMAR shall provide the Owner's Representative with a copy of CMAR's proposed Subcontractor agreement prior to requesting bids from Subcontractors or material suppliers.

6.3.4 All work performed for the CMAR by a Subcontractor shall be pursuant to an appropriate agreement between the CMAR and Subcontractor (and where appropriate between Subcontractors and Sub-subcontractors) which shall contain provisions that:

- A. Require that such Work be performed and guaranteed in accordance with the requirements of the Contract Documents.
- B. Require submission to the CMAR of applications for payment under each contract to which the CMAR is a party, in reasonable time to enable the CMAR to apply for payment in accordance with the Contract Documents.
- C. Require that all claims for additional costs, extensions of time, damages for delays, or otherwise with respect to subcontracted portions of the Work shall be submitted in writing to the CMAR (via any Subcontractor or Sub-subcontractor where appropriate) in sufficient time so that the CMAR may comply in the manner provided in the Contract Documents for like claims by the CMAR. Under no circumstances will any claim be considered for additional Work performed or materials furnished/supplied or services rendered if CMAR fails to comply with all notice requirements of the Contract Documents.
- D. Waive all rights the contracting parties may have against one another for damages caused by fire or other perils covered by the property insurance described in Article 15 herein and/or as provided in the Construction Management Agreement, except such rights as they may have to the proceeds of such insurance held by the Trustee for the insurance proceeds.
- E. Obligate each Subcontractor specifically to consent to the provisions of Paragraph 6.3.
- F. Require the Subcontractor to submit affidavits and waivers for Work completed by it and by its Sub-subcontractors as a condition to the disbursement for the next progress payment.
- G. Require submission to CMAR or the Subcontractor, as the case may

be, of applications for payment together with clearly-defined invoices and billings supporting all such applications under each contract to which CMAR is a party.

- H. Report, so far as practicable, unit prices and any other feasible formula for use in the determination of costs of Changes in the Work.
- I. Require each Subcontractor to furnish to CMAR, in a timely fashion, all information necessary for the preparation and submission of the reports required herein.
- J. Require each Subcontractor or Major Supplier to execute at the time of signing the Subcontract or purchase agreement, a Conditional Assignment on the form that will be provided by Owner.
- K. Require that each Subcontractor continue to perform under its subcontract agreement in the event that the Contract Documents are terminated and Owner assumes the subcontract and requests the Subcontractor to continue performance. The CMAR shall have each Subcontractor execute a contingent assignment of subcontract, on form provided by the Owner, and no Subcontractor may begin Work on the Project unless and until the Subcontractor has signed and returned an executed contingent assignment of subcontract.
- L. Keep and maintain documents as required under the Contract Documents.

6.4 PAYMENTS TO SUBCONTRACTORS

- 6.4.1 Unless valid ground exist for withholding payment otherwise due, the CMAR shall pay each Subcontractor, not later than ten (10) days of receipt of funds from Owner, an amount equal to the percentage of completion allowed to the CMAR on account of such Subcontractor's Work, less the percentage retained from payments to the CMAR. The CMAR shall also require each Subcontractor to make similar payments to Sub-subcontractors.
- 6.4.4 The Owner shall not have any obligation to pay or to see to the payment of any monies to any Subcontractors.

ARTICLE 7 - SEPARATE CONTRACTS

7.1 OWNER'S RIGHT TO PERFORM WORK AND AWARD SEPARATE CONTRACTS

- 7.1.1 The Owner reserves the right to perform work related to the Project with its own forces and to award separate contracts in connection with other

portions of the Project or other work on the Project Site under these or any other contract conditions. If the CMAR claims that delay or additional cost is involved because of such action by the Owner, CMAR shall make such claim as provided elsewhere in the Contract Documents.

- 7.1.2 The CMAR will provide for the coordination of the work of its own forces and of each Subcontractor with any Work that will be performed by Owner or a Separate Contractor. Owner's Representative shall notify CMAR of any pending work anticipated by Owner or Separate Contractors. Notwithstanding anything to the contrary, the CMAR shall be responsible for the overall Project coordination, including the coordination of the Owner's Separate Contractors.

7.2 COOPERATION WITH SEPARATE CONTRACTORS

- 7.2.1 The CMAR shall afford the Owner and other Separate Contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work and shall connect and coordinate CMAR's Work with others as required by the Contract Documents.
- 7.2.2 The CMAR and CMAR's Subcontractors shall cooperate with and coordinate their Work with each other and all other Separate Contractors and the Owner's Representative to facilitate general progress of the Project and to prevent delaying the progress of other Separate Contractors. The CMAR and CMAR's Subcontractors shall obtain layout drawings, roughing-in detail sheets, and pertinent information directly from the other Separate Contractors to coordinate all phases of the Work.
- 7.2.3 If any part of the CMAR's Work depends, for proper execution or results, upon the work of the Owner or its agents or Separate Contractors, the CMAR shall, prior to proceeding with the Work, promptly report to the Owner's Representative any apparent discrepancies or defects in the Owner's or Separate Contractor's work that render it unsuitable for such proper execution and results. Failure of the CMAR to report shall constitute an acceptance of the Owner's or Separate Contractor's work as proper to receive CMAR's Work and a waiver of any right to make a claim related to it.
- 7.2.4 All contractors on the Project shall have equal rights on the premises for the performance of their work.
- 7.2.5 Should the CMAR cause damage to the Work or property of the Owner or any other Separate Contractor, the CMAR shall, upon due notice, promptly attempt to settle with the Owner, or such other Separate Contractor, by agreement, or otherwise resolve the dispute. If such other Separate Contractor sues the Owner on account of any damage alleged to have been caused by the CMAR, the Owner shall notify the CMAR and the CMAR shall defend such proceedings at the CMAR's Sole Cost and Expense, and, if any judgment or

award against the Owner arises therefrom, the CMAR shall pay or satisfy it and shall reimburse the Owner for all attorney's fees and court costs which the Owner has incurred.

ARTICLE 8 – TIME

8.1 [INTENTIONALLY OMITTED]

8.2 PROGRESS AND COMPLETION

- 8.2.1 All time limits or dates stated in the Contract Documents are of the essence. In executing the Contract Documents, the CMAR agrees that the Contract Time is reasonable for the Work. Except for the time extensions approved by the Owner as set out herein, the Approved Baseline Schedule attached to the Contract Documents shall establish the completion milestones, Substantial Completion, and Final Completion Deadlines.
- 8.2.2 The CMAR shall begin Work immediately upon the Owner's execution of the Agreement. However, no Work at the Site shall be commenced until proper evidence of the required insurance has been submitted to the Owner's Representative, or where required, the CMAR and eligible Subcontractors and/or suppliers are enrolled and accepted in the OCIP. The CMAR shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.
- 8.2.3 Except for the constraints which may be specified for certain parts of the Work, the Work shall not be suspended or shut down, but shall progress continuously and expeditiously, unless otherwise approved by the Owner's Representative. The CMAR shall assemble materials and equipment in advance of the need and, as may be appropriate to the progress, shall prefabricate assemblies which will comply with the Contract Documents, as may be specified or, if not specified, as may be permitted by labor agreements, to expedite the Work and insure completion on time.
- 8.2.4 If completion dates or times are specified or otherwise included in the Contract Documents, it shall mean the Date of Substantial Completion as defined under Section 1.1, unless otherwise specified in the Contract Documents.
- 8.2.5 If the CMAR or any Subcontractor shall neglect, fail, or refuse to complete the Work within the time specified, or any proper extensions thereof granted by the Owner, the CMAR shall be subject to liquidated damages and/or actual damages suffered by the Owner resulting from non-completion on time and/or default under the Contract Documents. All damages caused by delay that extends the Substantial Completion date or the Final Completion date are covered by liquidated damages. Damages caused by delay which are based

upon agreed-to current scheduled dates for specific activities, but not arising as the result of an extension of the Substantial Completion date or Final Completion date, are not covered by liquidated damages and may be separately recovered by Owner if incurred as the result of delay for which CMAR is responsible. The Owner is required to mitigate its damages pursuant to Michigan law.

8.3 DELAYS AND EXTENSION OF TIME

8.3.1 The following definitions shall apply:

8.3.1.1 Critical Delay: A delay is a "Critical Delay" if and only to the extent it adversely affects the Critical Path of the Work. When two (2) or more delays occur concurrently, and each such concurrent delay by itself without consideration of the other delay(s) would be critical, then all such concurrent delays shall be considered critical. For the purpose of determining whether and to what extent the Project Baseline Schedule should be adjusted, such concurrent Critical Delays shall be treated as a single delay which commences at the start of the delay that begins first and terminates at the cessation of the delay that ends last.

8.3.1.2 Critical Path: The term "Critical Path" means the longest continuous chain of activities through the network schedule that establishes the minimum time to achieve Final Completion of the Work.

8.3.1.3 Defective Work: Work not conforming to the requirements of the Contract Documents, including substitutions not properly approved and authorized, shall be considered "Defective."

8.3.1.4 Force Majeure: The term "Force Majeure" means, and is limited to, the following: (i) strikes, lockouts, or picketing (legal or illegal) including strikes lockouts or picketing directed at the Project alone, or a specific Subcontractor to CMAR (however a strike, lockout or picket [legal or illegal] explicitly and primarily directed at the CMAR does not constitute Force Majeure); (ii) governmental action (other building laws, regulations or like actions) and condemnation; (iii) riot, civil commotion, insurrection, and war; (iv) fire or other casualty not the fault of the CMAR, accident, acts of God, or the public enemy; (v) extremely unusual adverse weather conditions not reasonably expected for the location of the Work and the time of the year in question; (vi) abnormal unavailability of fuel, power, supplies, or materials that is not the fault of the CMAR; or (vii) the passage or unexpected interpretation or application of any statute, law, regulation, or moratorium of any governmental authority that has the effect of delaying the Work, excluding any building statute, law, or regulation as to which any public or advance notice was available prior to its adoption or issuance. "Force Majeure" does not include the

unavailability of any building material, equipment, or supply which is specified for the Project or Work, nor of any specialized supplier, Subcontractor, laborer, or other entity or person required for the completion of the Work.

8.3.1.5 Owner Delay: An "Owner Delay" is an actual delay to the CMAR's performance of the Work to the extent caused by one or more of the following: (i) Work Directives (excluding minor changes in the Work and interpretations), (ii) the Owner's failure (or that of any other person for whom the Owner is responsible to the CMAR) to provide in a reasonable manner any data or information requested by the CMAR in writing that is reasonably necessary for the CMAR to carry out its duties and is the Owner's obligation to provide (so long as the Owner and any other responsible person are given adequate time to respond); (iii) the failure or inability of the Owner to provide access to the Project Site or critical portions thereof due to a failure to obtain a necessary easement or other cause for an unreasonable and unanticipated period of time; or (iv) unreasonable and unanticipated interference by the Owner or persons for whom it is responsible with the CMAR's performance of the Work which continues after written notice to the Owner of such interference. CMAR shall not claim an Owner Delay as a result of a condition the CMAR discovered or should have discovered prior to CMAR beginning the Work (or any part of the Work).

8.3.1.6 In the event of a delay, CMAR shall be prepared to accelerate the work if required in writing by Owner in order to meet the deadlines set out in the Contract Documents. CMAR will receive compensation for acceleration only if necessitated by an Owner caused delay, or a Force Majeure Delay and acceleration is required by Owner in writing, and only if CMAR has complied with all notice, and other submittal requirements set out in the Contract Documents. Within 5 days of a written request from the Owner's representative, CMAR shall provide Owner with an acceleration plan and a breakdown of all costs for implementing that plan as well as a breakdown of all costs that CMAR will claim if the project completion date is extended as the result of an Owner Caused Delay.

8.3.2 If the CMAR shall be delayed by Force Majeure, as defined in the Contract Documents, and if such delay affects the Critical Path Activity, then the Contract Time only shall be adjusted, subject to and in strict conformance with the requirements of the Contract Documents, and only to the extent necessary to compensate for such delay (but the total extension of all Critical Path Activities may not exceed the period of time required by the CMAR, using its best efforts, to mitigate the effect of the delay). The adjustment of Contract Time shall be the CMAR's sole remedy for any Force Majeure delay. The CMAR shall use its best efforts to mitigate the effects of any delay, whether or not it is caused by a Force Majeure Event.

8.3.3 Immediately upon (and not more than twenty-four (24) hours following the commencement of) the occurrence of a Force Majeure delay, the CMAR shall notify the Owner's Representative in writing, setting forth the cause of the delay, a description of the portions of the Work affected, and additional relevant details. Failure to submit the notice of Force Majeure delay required herein shall constitute a waiver of claim for an extension of time by the CMAR. In the case of a continuing cause of Force Majeure delay, only one notice is necessary.

8.3.4 No adjustments shall be made to the Contract Time for any suspension, delay, or interruption (i) to the extent that performance would have been so suspended, delayed or interrupted by any other cause, including the fault or negligence of the CMAR, (ii) to the extent the delay could have been mitigated by the CMAR, or (iii) for which an equitable adjustment is provided or excluded under any other provision of the Contract Documents. The Owner's exercise of any of its rights under the Contract Documents or the Owner's requirement of correction or re-execution of any Defective Work shall not, under any circumstances, be construed as interference with the CMAR's performance of the Work.

8.3.5 The remedies provided in this Section 8.3, respectively, shall be the sole and exclusive remedies (in lieu of all other remedies whatsoever) of the CMAR for any delay, interference, hindrances in the performance of the Work, loss of productivity, impact damages, and similar claims and damages, whether or not contemplated by the parties. Except only as specifically provided in the Contract Documents for cases of an Owner Delay (as the term is defined in the Contract Documents), the CMAR hereby expressly waives, covenants, and agrees not to assert any claims against the Owner for any damages, costs, losses, or expenses of any nature whatsoever which it or any Subcontractor or supplier may incur as a result of any delays, interferences, suspensions, rescheduling, changes in sequences, congestion, disruptions, or the like arising from, out of or in connection with any Force Majeure or act or omission of the Owner, its representatives or agents, it being understood and agreed that their sole and exclusive remedies shall be those set forth in this Section 8.3, unless and to the extent specifically provided for herein.

8.3.6 Claims of CMAR for costs and damages resulting from the Owner's suspension, delay, or interruption of the Work shall be determined in accordance with the following:

- (a) If the performance of all or any part of the Work on the Project is otherwise delayed or interrupted by an Owner Delay; and
- (b) If such act causes delays in the Critical Path Activity, then the Contract Time shall be adjusted, but only to the extent necessary to compensate for such delay; then

- (c) An adjustment shall be made to the GMP for the following items:
- (i) The cost of equipment necessary for the performance of Work required to remain on the Project Site that cannot be used for any Work whatsoever and cannot be relocated to perform other Work on other sites;
 - (ii) field general conditions actually incurred by the CMAR for the cost to maintain the Project Site;
 - (iii) Actual salaried supervision costs for supervision required on Site for an extended period of time where the supervisor could not be released from the Project and where no Work could be performed.
 - (iv) No payment and no increase in the GMP shall be due to the CMAR for home office overhead (including but not limited to Eichleay), equipment not necessary on Site during the delay period or which is used in performing other Work during the delay period, consequential damages including anticipated profits, loss or interference with bonding capacity; markup of any sort; insurance, interest; or any other costs not specifically delineated herein.

It is agreed that the CMAR shall accept the specified costs as full compensation for any Owner Delay whether agreed or disputed.

These costs shall be subject to audit by the Owner's Representative.

8.3.7 The CMAR shall have no further claim whatsoever against the Owner for damage or loss of any kind resulting from suspension of operations or delays or interruptions caused by an Owner Delay.

8.3.8 Immediately upon (and not more than twenty-four (24) hours following the commencement of) the occurrence of an Owner Delay, the CMAR shall provide the Owner's Representative with a Notice of Potential Claim in the form and substance set out in the Disputed Work provisions herein (with the exception that the Notice may be submitted within twenty-four (24) hours of the commencement of the delay). The Notice of Potential Claim shall set forth in detail the claimed delay, a description of the portions of the Work affected, the relief requested, and additional relevant details. Failure to submit this notice, including all supporting details, shall constitute a waiver of claim by the CMAR. In the case of a continuing cause of Owner Delay, only one (1) notice is necessary. If after receiving a Notice of Potential Claim, the Owner acknowledges the asserted Owner Delay, the claim will be addressed through the Change Order process; if

the Owner determines that no Owner Delay occurred, the claim is subject to dispute resolution in accordance with the requirements of the Contract Documents. If the Owner's Representative has not issued a determination of the assertion of an Owner Delay by the end of the issue giving rise to the asserted delay, then the CMAR must precede with the requirements for Disputed Work until the Owner's Representative issues a determination.

- 8.3.9 CMAR shall ensure that each Subcontractor is bound by the foregoing provisions.

ARTICLE 9 - PAYMENTS AND COMPLETION

9.1 [INTENTIONALLY OMITTED]

9.2 PROGRESS PAYMENTS

- 9.2.1 As the Work progresses, after a bona-fide start, the CMAR may make monthly Application for Payment for Work satisfactorily completed or materials suitably stored and protected at Project Site, or as otherwise provided herein. With the Application for Payment, the CMAR shall provide such supporting data as may be required by the Owner's Representative to substantiate the CMAR's right to payment.
- 9.2.2 Applications for Payment shall be submitted to the A/E and Owner's Representative in accordance with the Contract Documents, and on AIA forms G702 and G703 (or equivalent). Each Application for Payment shall be in itemized detailed form. The processing procedures and time for submitting Application for Payment shall be as directed by the Owner's Representative.
- 9.2.3 Payment will be made only for the Work that has been satisfactorily executed, completed, and/or installed in accordance with the drawings and Specifications provided to CMAR. Payment to CMAR for the CMAR's Direct Costs, Work completed by Subcontractors and self-performed Work completed by CMAR shall be made on a percentage completed basis of Work completed pursuant to the schedule of values previously provided by CMAR to Owner's Representative and A/E. The CMAR shall not exaggerate the percentage of the Work completed and reflected on the schedule of values.
- 9.2.4 [INTENTIONALLY OMITTED]
- 9.2.5 The Owner may make progress payments for materials and equipment not incorporated in the Work that are listed on the CMAR's Schedule of Values and stored on or off the Project Site. Payment will only be permitted when requested and approved in writing by the Owner's Representative and with the following conditions:

- A. The materials and/or equipment shall be delivered to and suitably stored at the Project Site or some other location approved in writing by the Owner's Representative. If the storage location is off-site, all items shall be clearly identified/labeled with the Project title and control number and shall be cataloged on a Stored Material Log. Evidence that off-Site location is properly secure shall be provided.
- B. The CMAR shall convey and submit title to such materials and/or equipment to the Owner within seven calendar days after receipt of payment for the material and/or equipment. This title shall include an itemization of all parts, components, etc. and the quantity of each.
- C. The care and custody of such materials and/or equipment, and all costs incurred for movement and storage shall be the responsibility of the CMAR.
- D. The CMAR shall suitably insure the materials and/or equipment, and shall submit a certificate of insurance showing the Owner as an additional insured and showing the amount of the insurance coverage. The certificate should indicate the description of the material or equipment stored, including quantities, types, manufacturers and other identification information.
- E. Payment shall be restricted to the cost of the material to the installing contractor as supported by invoices from the manufacturer and/or equipment supplier by executing the Stored Material Log.
- F. Upon demand by the Owner, the CMAR shall deliver paid for stored materials or equipment to the site and to the Owner's possession, at the CMAR's expense.
- G. The AE will inspect and verify materials stored within a 100 mile radius of the Project Site at its own cost. Should the location of the materials and/or equipment be outside of this area, the CMAR will be required to compensate the AE for all costs (including staff time and travel expenses) for such verification.
- H. All materials or equipment included in any Application for Payment that are stored at locations other than the Project Site are the responsibility of the CMAR, and the CMAR assumes all risk of loss or damage to such materials or equipment. The CMAR shall indemnify and hold harmless the Owner from and against all liabilities arising out of or resulting from loss or damage, from any cause, to such materials or equipment for which payment is requested, including liens, security interests, or other claims of any kind by Subcontractors, suppliers, or other third parties relating to

such materials or equipment.

- 9.2.6 After receipt of the Application for Payment from the CMAR, the Owner shall make payment in the manner and within the time provided in the Contract Documents.
- 9.2.7 All cash payment and prompt payment discounts shall accrue to the Owner as set out in the Contract Documents.
- 9.2.8 By submitting any Application for Payment, the CMAR attests to the accuracy of the amounts requested, represents that the Work has been satisfactorily completed in compliance with the Contract Documents, and they are entitled to the amount shown. By submitting the second or any subsequent Application for Payment, the CMAR attests that they have paid all just claims for labor, materials, equipment, subcontracts, or other expenses represented by all previous Applications for Payment.
- 9.2.9 Following payment from the Owner, the CMAR shall hold all funds due to Subcontractors and suppliers in trust for prompt payment, and shall not divert funds to pay debts on other projects to the detriment of Subcontractors and suppliers on the Project.
- 9.2.10 Full or partial payment on the GMP, or in reducing the retained amount (percentage) shall not relieve the CMAR or CMAR's Surety from fulfilling all obligations of the Agreement. The CMAR and CMAR's Surety, agree that they waive any actual or alleged rights of subrogation or action against the Owner and A/E as a result of such payments being made. Any such Surety at any time may examine the status of the Work.
- 9.2.11 No payment by the Owner, nor any partial or entire use or occupancy of the Work by the Owner, shall constitute an acceptance of any Work not in accordance with the Contract Documents.
- 9.2.12 All material and Work covered by payments made shall thereupon become the sole property of the Owner. Title to the Work passes to the Owner upon Owner's payment to the CMAR.

9.3 PAYMENTS WITHHELD

- 9.3.1 The Owner's Representative may decline to approve an Application for Payment if, in its opinion, the Application is not adequately supported. If the CMAR and Owner's Representative cannot agree on a revised amount, the Owner's Representative shall process the Application for Payment in the amount Owner's Representative deems appropriate. The Owner's Representative may also decline to approve any Applications for Payment or, because of subsequently discovered evidence or subsequent

inspections, the Owner's Representative may nullify in whole or in part any approval previously made to such extent as may be necessary in Owner's Representative's opinion because of:

- A. Defective Work not timely remedied following written notice therefore;
- B. Third party claims filed or reasonable evidence indicating probable filing of such claims;
- C. Failure of the CMAR to pay debts due on the Project, including by example, debts due to Subcontractors and suppliers;
- D. Reasonable evidence that the Work cannot be completed for the unpaid balance of the GMP;
- E. Uninsured damage to the Owner or Separate Contractor or such damage as may be disputed, contested, or denied working at the Project for which the CMAR is responsible pursuant to the Contract Documents;
- F. Reasonable evidence that the Work will not be completed within the Contract Time;
- G. Failure to carry out the Work in accordance with the Contract Documents; or
- H. Failure to maintain labor harmony as required in the Contract Documents; or
- I. Breach or apparent breach of any provision of the Contract Documents.

9.3.2 When the grounds outlined in the preceding Subparagraph are removed to the satisfaction of the Owner's Representative, payment shall be made for amounts withheld because of them, unless other grounds for withholding remain unresolved.

9.3.3 If at any time the Owner's Representative has reason to believe that any Subcontractor, laborer, or materialmen has not been fully paid for his labor or materials, then whether or not required to do so by law, the Owner may, but is not obligated to, withhold all further payments until the CMAR has furnished satisfactory evidence that all such persons have been fully paid or their claims otherwise discharged.

9.3.4 The Owner shall have the right to retain out of any payment due or thereafter to become due to the CMAR one hundred percent (100%) of the

amount of any claims arising out of the Work, which claims have not been removed or bonded off, to indemnify the Owner against the cost of such claims that may appear at any time in favor of any person claiming by, through, or under the CMAR, which amount shall include, but is not limited to, attorney's fees to defend any action in connection therewith or deposits which need to be made to have such claim resolved and released.

9.4 [INTENTIONALLY OMITTED]

9.5 COMPLETION AND FINAL PAYMENT

- 9.5.1 Upon receipt of written notice from the CMAR that the Work is Substantially Complete and ready for final inspection, all corrections made, all reports and other data filed, all equipment and systems tested, and there is no other unfinished Work, the Owner's Representative and the A/E will promptly make such inspection to determine if the Work is acceptable under the Contract Documents and the Agreement is fully performed.
- 9.5.2 Prior to requesting the Certificate of Final Completion from the Owner's Representative, the CMAR must submit to the Owner's Representative (1) an affidavit that the Work has been completed in accordance with the terms and conditions of the Contract Documents, (2) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or Owner's property might in any way be responsible, have been paid or otherwise satisfied, (3) consent of surety to Final Payment, and (4) other data to the extent and in such form as may be required by the Owner's Representative or by the Contract Documents establishing payment or satisfaction of all such obligations. If any Subcontractor refuses to furnish a release or waiver required by the Owner's Representative, the CMAR may furnish a bond satisfactory to the Owner's Representative to guarantee the payment of such claim if proven valid. If any claim remains unsatisfied after all payments are made, the CMAR shall indemnify and hold harmless the Owner for all costs incurred in defending and/or discharging such claims, including attorneys' fees and costs related thereto.
- 9.5.3 The CMAR's final Application for Payment must be submitted to the Owner's Representative within ninety (90) days of receipt of the Certificate of Final Completion.
- 9.5.4 Final Payment will not be made until the Owner has been fully and properly instructed in use and operation of all of the Work, equipment, and systems under the Contract Documents and all manuals, bonds, and similar items have been provided by the CMAR.
- 9.5.5 The CMAR's submission of a final Application for Payment and/or

acceptance of Final Payment shall constitute a waiver of all claims by the CMAR and its Subcontractors against the Owner, except only those specific claims of the CMAR made in writing and expressly reserved by the CMAR in written notice to the Owner's Representative attached to the CMAR's Final Application for Payment.

9.5.6 Final Payment shall be provided as set out in the Agreement.

ARTICLE 10 - CHANGES IN THE WORK

10.1 CHANGE ORDERS

10.1.1 The Owner, or the A/E with the Owner's written concurrence, without invalidating the Agreement, may order changes in the Work consisting of additions, deletions, or other revisions, the GMP and the Contract Time being adjusted as specified in the Contract Documents. All such changes in the Work shall be authorized by a Change Order, and shall be executed under the applicable conditions of the Construction Documents. Such changes in the Work may be made without notice to the Surety on the Bond given under the Agreement. The Owner reserves the right to require additional security when additions are made if, in its judgment, such security is necessary to protect its interests. A Change Order is initiated by the Owner's request for a quotation. If Owner issues a request for quotation, the CMAR shall, within ten (10) days, or less as required to maintain the Contract Time, of the receipt of such request for quotation, issue a quotation to Owner that offers to completely perform the Work covered by the request for quotation, including, by way of example, any and all claims up to that point in time, including inefficiency, compression of the Contract Time acceleration, delay, etc. Without any further action from CMAR, Owner may accept CMAR's quotation in writing and such acceptance shall result in the issuance of a Change Order, or reject such quotation in which case Owner may elect not to proceed, or Owner may proceed with another Separate Contractor, or in any manner the Owner deems necessary to complete the Work. CMAR specifically agrees to waive any and all claims relating to the request for quotation and any and all claims occurring prior to the submission of the request for quotation unless specifically accepted in writing by the Owner in the request for quotation.

10.1.2 A Change Order is a written order to the CMAR signed by the Owner and, at the Owner's discretion, the A/E, issued after the execution of the Agreement, authorizing a Change in the Work and/or an adjustment in the GMP and/or Contract Time. A Change Order signed by the CMAR indicates CMAR's agreement therewith, including the adjustment in the GMP and/or the Contract Time.

10.1.3 A Change Order signed by the CMAR without any indication of change in the Contract Time indicates the CMAR's agreement that there will be no change in the Contract Time.

10.1.4 Any adjustment to the GMP resulting from Changes in the Work shall be determined in one of the following ways as approved or directed by the

Owner:

- A. By an accepted Unit Price proposed in the CMAR's original bid and incorporated in the Agreement or a Unit Price comparable to unit costs in the CMAR's Schedule of Values.
 - B. By a lump sum acceptable to the Owner, based on the CMAR's detailed, itemized breakdown of the actual basic cost, with allowance for the CMAR's profit and overhead, as provided for under Subparagraph 10.1.8.
 - C. By mutually agreeable Unit Prices for the actual cost, with allowance for profit and overhead, computed in a similar manner as provided for in Subparagraph 10.1.8.
 - D. On the actual basic cost of the Change in the Work, as determined by payroll records and paid receipts, as provided for in Subparagraphs 10.1.4 through 10.1.13 subject to a predetermined maximum amount.
- 10.1.5 The CMAR shall provide or perform additional Work, make changes in the Work, and comply with the provisions of a Change Order the same as though the changes had been a part of the original Contract Documents, when and as ordered in writing by the Owner.
- 10.1.6 Except for unit prices included in the Contract Documents and unless otherwise approved by the Owner, for proposed changes in the Work, the CMAR shall submit an itemized list of quantities with the applicable unit cost and extended price for each, in such form and detail as required by the Owner.
- 10.1.7 At a minimum, the quotation to Owner in response to a request for quotation shall include and indicate the items enumerated below. Items (A) and (B) constitute the cost of labor and items (A) (B), (C), and (D) constitute the actual "basic costs" referred to under this Article.
- A. Actual labor costs, itemized by each trade involved, showing the hourly rates for each. Labor rates shall be the same for extra and credit computations.
 - B. Burden on labor, which shall be the actual costs of mandatory fringe benefits, taxes on labor, workmen's compensation, insurance on labor as affected by payroll, unemployment taxes, including FICA and FUTA.
 - C. Actual quantities of material and equipment, with their actual unit costs. CMAR may be required to submit copies of actual invoices.
 - D. The cost of subcontracted work, computed in the same way as provided for under this Subparagraph.

- E. Overhead, profit, or commission.
 - F. Applicable sales tax on materials.
- 10.1.8 The maximum that will be allowed for overhead and profit as follows expressed as a percentage of the actual amount of the change in the Cost of the Work:
- A. To the Subcontractor (OR CMAR for self-performed work) for Work performed by its own forces a negotiated mark up that will not exceed eight percent (8 %) of the Cost of Work for the CMAR.
 - B. To the Subcontractor for Work performed by other than its own forces a negotiated mark up that will not exceed four percent (4 %) of the Cost of the Work of its Subcontractors (including the Subcontractor's overhead and profit).
 - C. The total mark up for change orders including all Subcontractors, Sub-subcontractors or suppliers of any tier shall not exceed 16%.
- 10.1.9 The burden on labor may be indicated as a dollar/cents addition to the hourly rate or may be expressed as a percentage of the extended hourly rate costs. If required by the Owner, the CMAR shall provide a detailed breakdown to justify the labor burden. The Owner reserves the right to reject any labor burden which is inconsistent or unreasonable.
- 10.1.10 Material costs shall be at the actual cost to the CMAR or Subcontractor. The CMAR shall submit evidence to substantiate the costs. Materials shall be quoted at trade discount prices, with quantity discounts also applied where the quantities warrant. In any proposal with material credits, the credit shall be based on the actual cost of the materials (including trade and quantity discounts) less any charges actually incurred for handling or returning a material which has been delivered. No "cancellation" or restocking charge will be allowed when material has not been shipped to the Project Site.
- 10.1.11 The percentages allowed for Subcontractors for overhead and profit under this Article shall be deemed to include: (1) field and office supervision and administration; (2) general insurance, except that listed as the labor burden; (3) use of small tools; (4) shop burden; (5) equipment rental (other than required additional hoisting equipment or required excavation equipment necessary solely as a result of the Change in the Work); and (6) engineering, drafting and estimating costs.
- 10.1.12 For changes resulting in a credit in the basic Cost of the Work, an

allowance for profit (but not overhead) shall be refunded to or credited the Owner, consistent with this Article.

- 10.1.13 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of Work proposed will cause substantial inequity to the Owner, the applicable unit prices shall be equitably adjusted.
- 10.1.14 On changes in the Work where the value or extent of Work cannot be reasonable predetermined or agreed upon, the Owner, at its sole discretion may authorize Work to proceed on an agreed upon cost plus basis, not to exceed a predetermined maximum amount. In such cases, the basic costs and mark-up for overhead, profit, and commission will be in accordance with this Article. CMAR will maintain signed Daily Work Tickets and precede under the same conditions as set out in the Disputed Work provisions herein.
- 10.1.15 The Owner may, at its discretion, issue a Work Directive directing the CMAR to proceed with recognized changed Work with a change order to be issued at a later date. Such Work Directives shall be subject to the same conditions and cost proposals as Change Orders, shall order and authorize the CMAR to proceed with the changes in the Work, and shall have the same effect as a Change Order except the GMP or Contract Time will not be changed until a subsequent Change Order has been agreed upon.
- 10.1.17 Unit prices proposed on the Bid Form and included in the Agreement are not subject to further profit, overhead, or commission adjustments. The GMP will be adjusted by the direct extension of the number of units and the unit prices.
- 10.1.18 If the Owner does not accept proposals of the CMAR for additional Work or changes in the Work and no agreement is reached, or if it does not seem advisable or expedient to proceed on the basis of the CMAR's proposal, the Owner may issue a Work Directive ordering the CMAR to proceed with disputed Work and address the claim for compensation through the Disputed Work process in the Contract Documents. The issuance of a Work Directive shall not be deemed to recognize or admit the existence of a change or differing condition in the Work, nor any entitlement to an increase in the GMP or extension of the Contract Time, unless the Work Directive expressly and specifically states otherwise. The issuance of a Work Directive terminates any request for quotation issued for that Work. Upon receipt of a Work Directive, the CMAR shall immediately proceed with the Work and comply with the provisions of section 10.3 as to any unresolved claim or credit. Owner also reserves the right to perform additional work or changes in the Work with Owner's own personnel or to employ others for changes in

the Work.

10.1.18 Except in an emergency endangering life or significant property, the CMAR shall make no changes in the Work affecting the GMP or Contract Time unless in pursuance of a Change Order, or a Work Directive from the Owner.

10.1.19 CMAR shall review and analyze all Subcontractor Change Order submissions or requests, claim documentation, or other requests for compensation from Subcontractors and shall certify that any amounts claimed are valid to the best of CMAR's knowledge and ability to discern facts relating to the costs and claim. CMAR accepts responsibility for all submitted requests and shall not merely pass through subcontractor and supplier information without review, analysis, and confirmation of the validity of all data, figures and claims for entitlement.

10.2 INTENTIONALLY OMITTED

10.3 DISPUTED WORK

10.3.1 Step 1: Notice of Potential Claim.

The CMAR shall not be entitled to of any increase in the GMP, or additional compensation or extension of Contract Time unless the CMAR has strictly complied with the requirements for written notice of claims set out herein. These requirements apply to any request by the CMAR for an increase in the GMP, for additional compensation of any kind, or for a time extension where the request is not subject to a Change Order or a pending request for quotation, regardless of whether the source of the claim is the CMAR or a Subcontractor or supplier.

10.3.1.1 Failure to negotiate Change Order. CMAR must submit a Notice of Potential Claim when proceeding with Work ordered by written Work Directive from the Owner directing CMAR to proceed with Disputed Work where a Change Order could not be agreed upon and the CMAR intends to seek an adjustment of the GMP or an extension of Contract Time in relation to the Work addressed in the Work Directive.

10.3.1.2 Claims where no Request For Quotation was issued. In any case where the CMAR believes extra compensation is due to the CMAR for Work or materials not covered under the Contract Documents, and not subject to a request for quotation, the CMAR shall notify the A/E and Owner in writing of the CMAR's intention to make a claim for such compensation within three (3) working days of discovering the basis for the potential claim and in any event before the CMAR begins the Work on which the CMAR bases the

claim. After providing the Notice of Potential Claim, CMAR shall obtain a Work Directive prior to proceeding with the Work. A Notice of Potential Claim submitted after the costs are incurred shall not satisfy the requirements of this section and constitute a waiver of the claim.

10.3.1.3 Emergency Work. For emergency Work, the CMAR shall provide the Notice of Potential Claim as soon as practical, but in no event more than two (2) working days after beginning the Work. The notice shall be in conformance with the provisions for Notice of Potential Claim set out herein. If such notice is not given, then the CMAR shall be deemed to have conclusively waived the claims for such extra compensation for that claim.

10.3.1.4 Notice Of Potential Claim Form. CMAR's written Notice of Potential Claim shall be submitted on the appropriate form furnished by the Owner and shall be filled out completely with all necessary attachments and certified by the CMAR as having been reviewed by the CMAR and found to be valid. The notice shall set forth the justification for the additional compensation, as well as a breakdown of estimated costs. The notice shall also state whether the affected Work impacts the Critical Path for completion of the Project.

10.3.2 Step 2: Maintenance of Executed Cost Records.

CMAR shall track all costs incurred and submit detailed, daily tickets setting forth the Work ("Daily Work Tickets") to the A/E for signature. Daily Work Tickets shall set out the hours of labor and the number of hours and equipment was used exclusively for claimed changed or extra Work. CMAR shall notify A/E of the times and locations the CMAR is performing claimed changed or extra Work so that A/E has the opportunity to observe the Work. A/E shall not execute any Daily Work Tickets where the A/E was not notified of the Work being performed and provided the opportunity to observe the Work if desired. The execution of such Daily Work Tickets will confirm the labor performed and equipment and materials utilized only. If the A/E is not provided with properly completed Daily Work Tickets on the form supplied by the Owner each and every day that the purported extra Work is performed, then no compensation shall be due to the CMAR for Work performed on that day in relation to the issues in the Notice of Potential Claim. The CMAR shall keep a copy of the signed Daily Work Tickets and will submit these Daily Work Tickets with the substantiation of the claim as described herein. No amount will be due to the CMAR for Work that is not shown on a signed Daily Work Ticket signed by the A/E and on the form supplied by the Owner.

Such notice by the CMAR and the fact that the A/E has executed Daily Work

Tickets shall not in any way be construed as proving or evidencing the validity of the claim. Execution of the Daily Work Tickets shall not constitute any admission or acknowledgement of entitlement to additional payment nor of a Change in the Work. Any terms written on either side of a Daily Work Ticket are not binding on the Owner or A/E and it is agreed that all such terms will be deemed meaningless. The designation of the Daily Work Tickets as "Extra Work Tickets" shall not acknowledge that the Work is extra or not part of the Agreement requirements.

10.3.3 Step 3: Substantiation of Claim.

Within fifteen (15) calendar days of completing the affected Work, the CMAR shall submit to the Owner and A/E substantiation of the CMAR's actual costs, together with a time impact analysis of the actual impact of the Work on the Contract Time. The time impact analysis shall set out the actual impact of the Work on the Critical Path of the Contract Time and shall not be based on fragnets inserted into the Approved Baseline Schedule to create theoretical schedule impacts. The Time Impact Analysis shall also identify and include all revisions to schedule logic, overlapping of Work items and/or re-sequencing that can be applied to eliminate or reduce the impact on the schedule. Each claim shall be addressed in a separate Notice of Potential Claim and substantiation of actual costs. Multiple claims shall not be combined into a single notice and costs and time incurred must be set out separately for each claim.

Failure to provide any portion of the required notification or substantiation of the claims as required herein shall constitute a waiver of the CMAR's claim and all costs and time impact related thereto.

10.3.4. Step 4: Inspection of Documents.

Upon request by the Owner, CMAR shall make available for inspection and copying any and all documents or records in CMAR's or any Subcontractor's possession or control which pertain to the potential claim. Owner is not required to provide the reasoning or analysis that is the basis for any request for documents.

10.3.5. Step 5: Claim Negotiations.

The A/E shall notify the CMAR of the Owner's general position on the CMAR's submitted claim as soon as it is reasonably practical under the circumstance of the claim. Within two (2) working days of receipt of notice of the Owner's general position on the claim, the CMAR shall appoint in writing, a representative to meet with the Owner and A/E's representatives within thirty (30) days of the date of the notice of the Owner's general position on the claim. The meeting date may be extended only at the option of the Owner conveyed in writing through the A/E. The CMAR's representative shall attend the meeting, prepared with all

information relating to the claim and to discuss every aspect of the CMAR's claim and with full authority to negotiate and resolve the CMAR's claims (including without limitation the authority to dismiss the claim in its entirety). Multiple claims, for which the CMAR has provided separate notices and substantiation as set out above, may be addressed in a single meeting. The CMAR shall designate such representative or representatives as necessary to address each claim that will be considered in the meeting.

If the claim or claims are not resolved at the initial negotiation meeting, CMAR shall appoint a second representative at a higher level of authority within CMAR's organization. The Owner will likewise appoint a representative of higher authority to meet with the CMAR's representative. The additional representatives of the CMAR and the Owner will meet to further negotiate and discuss the unresolved claims within thirty (30) days of the conclusion of the initial meeting unless this date is extended by the Owner. The participants of the original meeting may attend the subsequent higher level meeting if requested by the CMAR and agreed by the Owner.

The failure to participate in the negotiating meetings or the failure to provide a representative prepared and authorized to discuss and negotiate the claims shall constitute a waiver of all claims by the CMAR. The meetings may be recorded by the Owner if desired, and the Owner may include an additional participant to take notes and prepare minutes of the meeting if desired by the Owner. The claim negotiation meetings shall be considered confidential settlement discussions and nothing said or done at the meeting shall be admissible in any proceeding whatsoever as evidence of liability or any asserted defense to a claim, other than as necessary to establish that the CMAR failed to appoint and provide a representative in accordance with the requirements of this section.

10.3.6. Step 6: Owner's Final Decision.

If the claim or any part of the claim is not resolved at the claim meeting, the A/E will notify the CMAR in writing of the Owner's final decision on the claim. Within thirty (30) days of receipt of the notice of the Owner's final decision, the CMAR shall either accept the final decision, or provide the CMAR's written objection to the Owner's final decision on the claim. The failure to provide notice of any such objection within thirty (30) days of receipt of the Owner's final decision shall constitute acceptance of that decision and a waiver of all objections and any right to further compensation or time for the issues raised in the claim.

Claims for which the CMAR submits a timely objection to the Owner's final decision shall be combined and addressed in a single final meeting at the end of the Project as set out in the Dispute Resolution provisions of the Contract Documents.

10.3.7. Intent and Waiver of Claims

The intention of this provision is to bring any potential claims to the attention of the A/E and Owner as early as possible in order to allow mitigation efforts and expedited resolution of claims or potential claims. CMAR waives its right to any increase in the GMP, additional compensation, and/or extension of Contract Time for any claim that is not submitted in accordance with the Contract Documents. This Subparagraph applies to all claims for extra Work, changed Work, delay, acceleration, constructive changes or constructive acceleration, disruption to the orderly performance of the Work, and every other claim for additional compensation by the CMAR in relation to the Contract Documents, or to the Work on the Project. The requirements of this section may not be waived by the express or implied statements, representations, or actions of the A/E or Owner. The failure to enforce these provisions on one or multiple occasions shall not constitute a waiver of these provisions.

Nothing in this provision shall relieve the CMAR of any other obligations under the Contract Documents.

10.3.8 Step 7: Contract Dispute Resolution.

All claims not resolved or waived through the process set out herein shall be addressed after Final Completion through the Dispute Resolution provisions of the Contract Documents.

ARTICLE 11 - MISCELLANEOUS PROVISIONS

11.1 GOVERNING LAW

11.1.1 The Agreement shall be governed by the laws of the State of Michigan.

11.3 INTENTIONALLY OMITTED

11.4 RIGHTS AND REMEDIES

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

11.4.2 No action or failure to act singularly or in the aggregate, by the Owner or A/E shall constitute a waiver of any right or duty afforded any of them under the Contract Documents, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

11.5 BONDS

- 11.5.1 Within five days of Owner's acceptance of the Initial GMP, the CMAR shall furnish Payment and Performance bonds in the amount of \$220,000,000.00 and on forms provided by the Owner, signed by the CMAR and a Corporate Surety authorized to provide bonds in the State of Michigan and approved by the Owner's Representative ("Surety"). Valid and enforceable bonds shall be maintained by the CMAR throughout the life of the Agreement and for a period no less than six (6) years from Final Completion.
- 11.5.2 The minimum requirement for Owner's Representative approval of the Surety shall be that the Surety is listed by the United States Treasury Department as acceptable for bonding federal projects, that the bond amount is within the limit set by the Treasury Department as the net limit on any single risk, that the Surety has a financial rating not lower than XII and service rating no lower than A as listed in A.M. Best's Key Rating Guide, current edition, and that there is no affiliation between the CMAR and the Bonding Agent or Agency.
- 11.5.3 The bonds shall guarantee that the CMAR will perform each and every part of the Agreement, cover all guarantees called for, and insure prompt payment to all persons furnishing labor or material required in the prosecution of the Work under the Agreement. In the event of additions to the Contract Documents, the Owner's Representative reserves the right to require evidence of additional bond.
- 11.5.4 If the Surety on any bond furnished by the CMAR is declared bankrupt, becomes insolvent, is delisted by the United States Treasury Department,, loses its right to do business in the State of Michigan, has a financial rating lower than XII and service rating lower than A as listed in A.M. Best's Key Rating Guide, current edition, or ceases to meet the requirements outlined in the above Subparagraph, the CMAR shall, within five (5) days thereafter, substitute another bond and Surety, both of which shall be acceptable to the Owner's Representative. The Owner has no obligation to monitor the Surety's status.
- 11.5.5 Whenever the CMAR shall be and is declared by the Owner's Representative to be in default under the Agreement, the Surety shall immediately remedy the default or shall promptly:
- A. Complete the Agreement in accordance with its terms and conditions, or
 - B. Obtain a bid or bids for completing the Agreement in accordance with its terms and conditions and upon determination by the Owner's Representative and the Surety jointly of the lowest responsible bidder,

arrange a contract between such bidder and the Owner, and make available as the Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of Final Completion not to exceed, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in Subparagraph 11.5.1.

11.5.6 Other costs and damages shall include, but not be limited to the following as incurred and determined by the Owner's Representative.

- A. Costs associated with re-bidding the Work;
- B. Unproductive use of Owner personnel;
- C. Additional costs associated with re-negotiating a contract;
- D. Direct damages and Liquidated Damages caused by delay in Substantial or Final Completion to Owner and other associated costs and losses occasioned to Owner; and
- E. Costs associated with preconstruction activities that must be repeated by a replacement CMAR.

11.5.7 Final acceptance of the Work shall not relieve the CMAR or CMAR's Surety from their obligations under this Agreement, including guarantees of materials, equipment, installation, or service.

11.6 TESTS

11.6.1 If the Contract Documents, Owner instructions, laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested, or approved, the CMAR shall give the Owner's Representative and A/E timely notice of its readiness so the Owner's Representative and A/E may observe such inspection, testing, or approval if desired. Any of the Work requiring testing, inspection, or approval, which is covered or otherwise made inaccessible without the consent of those requiring or making the inspection or test, shall be uncovered and made accessible by and at the expense of the CMAR. If such procedures for testing, inspection, or approval reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the CMAR shall bear all costs made necessary by such failure including those of repeated procedures and compensation of the A/E's services and expenses.

11.6.2 If the A/E or Owner's Representative determines that any Work requires special inspection, testing, or approval which the preceding Subparagraph does not include, the Owner's Representative will instruct the CMAR to order such special inspection, testing, or approval and the CMAR shall give notice as in Subparagraph required above. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the

Contract Documents, the CMAR shall bear all costs thereof, including compensation for the A/E's and Owner's Representative's additional services made necessary by such failure. If the Work complies, the Owner shall bear such costs and an appropriate Change Order shall be issued.

- 11.6.3 Required certificates of inspection, testing, or approval shall be secured by the CMAR and promptly delivered by CMAR to the A/E and the Owner's Representative.
- 11.6.4 If the A/E or Owner's Representative is to observe the inspections, tests, or approvals required by the Contract Documents, it will do so promptly and, where practicable, at the source of supply.
- 11.6.5 Neither the observations of the A/E or the Owner's Representative, in their administration of the Agreement, nor inspections, tests, or approvals by persons other than the CMAR, shall relieve the CMAR from CMAR's obligation to perform the Work in accordance with the Contract Documents.
- 11.6.6 For detailed procedures for Testing, refer to Article 16 - General Requirements.

11.7 USE OF OWNER'S NAME AND PROPERTY

- 11.7.1 The CMAR shall not use the Owner's name in any promotional literature or media without the prior written permission of the Owner's Representative. The CMAR shall include this provision in any contract with Subcontractors and require such Subcontractors to include this provision in any contracts with Sub-subcontractors.
- 11.7.2 Unless the Contract Documents specifically call for the Owner's property to be supplied to the CMAR, or installed or connected by the CMAR under the Agreement, no property, supplies, equipment, or personnel of the Owner shall be used by the CMAR in the performance of CMAR's Work or obligations under the Contract Documents.

11.8 USE OF THE PREMISES

- 11.8.1 The Owner reserves the right to jointly use the premises with the CMAR in the performance of CMAR's duties and functions. The Owner reserves the right to (1) enter into the Project and premises at all times; (2) make installations of materials and equipment at appropriate times as the Work progresses; (3) store property in essentially completed areas; (4) install furniture and furnishings when spaces are at appropriate stages of completion; and (5) use the premises for other similar activities. The CMAR shall cooperate with the Owner's Representative to allow Owner's use of the

Project and premises. Such activities shall not be construed as occupancy.

- 11.8.2 If any part, unit, or the entire Work or Project is Substantially Complete or ready for occupancy, the Owner may, upon written notice to the CMAR, enter into and make use of the Work that is Substantially Complete or otherwise suitable for the Owner's purposes.
- 11.83 Where the Work in any rooms in portions of the building is completed to the extent that the requirements of Substantial Completion and Final Payment may apply, and the Owner desires such rooms in portions of the building for Owner's possession, the Owner's Representative may then issue to the CMAR, a Certificate of Substantial Completion, or series of Certificates, for the accepted rooms or portions of the building at the request of the Owner.
- 11.8.4 The Owner's beneficial use or occupancy shall not be construed as acceptance of the Work or any of its materials and equipment. Such use and occupancy shall be subject to any corrections of deficiencies, damage, or omissions noted.

11.9 TURNOVER PROCEDURE

- 11.9.1 Upon Substantial Completion of the Work or a section thereof, the CMAR shall cause to be conducted the generally accepted types of field tests such as hydrostatic, pneumatic, and other field tests of operating equipment and systems; electrical power and lighting systems, and building accessories, such as heating, ventilating, and air conditioning. In the event any equipment or system fails to meet such tests, CMAR shall promptly perform or cause CMAR's equipment or material suppliers to perform such Work, At No Additional Cost to the Owner, as may be necessary to correct deficiencies, and shall repeat the tests until the result of the tests indicates that all equipment or systems comply with Specifications set forth in the Contract Documents. The Owner's Representative or A/E shall witness all such tests.
- 11.9.2 When the Work or a section thereof is Substantially Complete, the CMAR shall advise the Owner's Representative and A/E, in writing, that CMAR deems the Work or such section thereof Substantially Complete in accordance with the Contract Documents. Owner's Representative through the A/E may, but is not required to, issue a Certificate of Completion for that part of the Work.
- 11.9.3 The CMAR shall complete the Work or a section thereof by finishing or causing CMAR's Subcontractors to finish any installation, clean-up, grading, and other Work which may remain to be done, such as dismantling all temporary structures and construction buildings erected by the CMAR at the Site, and cleaning and returning to original grade any areas which the CMAR used in connection with the Work. When the above Work is done, the CMAR shall notify the Owner's Representative and A/E, in writing, that CMAR deems

that the Work of such section thereof is complete in accordance with the Contract Documents.

- 11.9.4 At the Owner's Representative's request, the CMAR shall furnish training and standby labor and/or start-up advisory personnel to assist the Owner during the early phases of operation of a portion of the Work as set out in Contract Documents.

11.10 MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES

- 11.10.1 The CMAR and Owner hereby waive claims against each other for consequential damages arising out of or relating to this Project. This mutual waiver includes damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and damages incurred by the CMAR, including by example, damages for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, loss of bonding capacity, expectation damages, and for loss of profit including profit arising directly from the Work. This mutual waiver is also applicable, without limitation, to all consequential damages due to either party's termination, whether for cause or convenience. Notwithstanding anything to the contrary in the Contract Documents, this waiver of consequential damages shall not apply to and shall not waive the Owner's right to recover liquidated damages or the Owner's right to reduce and/or eliminate CMAR's distribution of Gross Savings.

11.11 HAZARDOUS MATERIALS

- 11.11.1 As used herein, the term "Hazardous Materials" means any hazardous, toxic, flammable, or explosive substance, material, or waste which is or becomes regulated by any local governmental authority, the State of Michigan, or the United States Government. The term "Hazardous Materials" includes, without limitation, any material or substance which is (i) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 U.S.C. § 1317); (ii) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.); (iii) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.); or (iv) defined as a "hazardous" or "toxic" substance in any law similar to or in any amendment of any of the foregoing laws.
- 11.1.2 CMAR shall not, at any time, cause or permit any Hazardous Materials to be brought upon, stored, manufactured, blended, handled, or used in, on, or about the Work or the Project Site for any purpose, except any Hazardous Materials as may be specifically called for in the drawings and Specifications and except as specifically identified by the CMAR and approved in writing in advance by

Owner's Representative.

- 11.1.3 CMAR shall promptly notify Owner's Representative in writing of any reportable release of Hazardous Materials on the Work or the Project Site, specifying the nature and quantity of the release, the location of the release, and the measures taken to contain and clean up the release and ensure that future releases do not occur.
- 11.1.4 The CMAR shall promptly notify the Owner's Representative in writing if the CMAR encounters Hazardous Materials at the Project Site. In the event of a release of Hazardous Materials or if the CMAR encounters Hazardous Materials at the Project Site, the CMAR shall immediately stop all Work in affected areas until the Owner's Representative directs the CMAR in writing to proceed with such Work.
- 11.1.5 The CMAR shall defend, with counsel acceptable to Owner, and indemnify the Owner, A/E and Owner's Representative against and hold them harmless from and against any and all claims, judgments, damages, penalties, fines, liabilities, losses, and costs and expenses (including reasonable attorneys' fees and court costs) which arise at any time during or after the Final Completion of the Work as a result of or in connection with (i) CMAR's or its members breach of any prohibition or requirement set forth in this section; (ii) any release, spill or presence of Hazardous Materials in the environment, soil or surface or ground water in, on, under, or about the Work, the Owner's facilities, the property or other properties as a result of CMAR's, its agents', employees', Subcontractors', Sub-subcontractors' and their agents and employees', activities on or in connection with the Work, except the presence of Hazardous Materials if such Hazardous Materials were specified in the drawings and Specifications provided by the Owner and its constituting Hazardous Materials was unknown to CMAR and could not have been discovered with the exercise of due care by CMAR. This obligation by CMAR to defend, indemnify, and hold harmless includes, without limitation, costs incurred in connection with any investigation of Site conditions or any cleanup, remedial, removal, or restoration Work required by Owner or any federal, state, or local governmental agency or political subdivision because of any Hazardous Materials occurring or present in the soil, surface or ground water in, on, under, or about the Work or the Project Site, diminution in value of the Work or the Project Site, damages for the loss or restriction on use of rentable or usable space or of any amenity of the Work or the Project Site, and sums paid in settlement of claims, penalties, attorneys' fees, court costs, consultant and laboratory fees, and expert's fees as a result of CMAR's, its agents', employees', subcontractors', and their agents and employees' activities on or in connection with the Work or the Project Site. With respect to Hazardous Materials present at the Project Site that were not brought there by the CMAR or whose threat of harm was not exacerbated by the CMAR, the Owner shall indemnify, defend and hold the CMAR and its officers, agents and employees harmless in the same manner as this Section requires the CMAR to indemnify the Owner as long as CMAR

complies with requirements to this provision.

ARTICLE 12 - PROTECTION OF PERSONS AND PROPERTY

12.1 SAFETY PRECAUTIONS AND PROGRAMS

- 12.1.1 The CMAR expressly undertakes, both directly and through CMAR's Subcontractors, to take every precaution at all times for the protection of persons, including employees and property. The CMAR shall be responsible for initiating, maintaining, and supervising all safety, health, and environmental precautions and programs in connection with the Work. CMAR shall also follow and ensure compliance with minimum safety requirements attached to Contract Documents and included herein.
- 12.1.2 If the CMAR fails to maintain the safety precautions required by law or directed by the Owner's Representative, the Owner's Representative may, after notice to CMAR, take such steps as necessary and charge the CMAR therefore if the CMAR fails to promptly correct such matter.
- 12.1.3 The failure of the Owner's Representative to take any such action shall not relieve the CMAR of CMAR's obligations in this Article.
- 12.1.4 The CMAR shall comply with all federal, state, and local requirements applicable to the Project.
- 12.1.5 The CMAR alone shall be responsible for the safety, efficiency, and adequacy of CMAR's plant, appliances, and methods and for any damage which may result from their failure or their improper construction, maintenance, or operation. Compliance with minimum safety requirements and shall not relieve CMAR of responsibility and shall not shift liability or responsibility to Owner or Owner's Representative, or any other person or entity.
- 12.1.6 Prior to start of the Work, the CMAR shall submit to the Owner's Representative, in writing, a description of CMAR's safety program for review and comment. During the conduct of the Work, the CMAR shall notify the Owner's Representative, in writing, within twenty-four (24) hours of all accidents.
- 12.1.7 The CMAR shall notify the Owner's Representative of any flammable, combustible, and/or toxic materials intended for use on the Project, and shall furnish the Owner's Representative literature pertinent to the use and control of such materials. Safety data sheets shall be maintained by the CMAR and be readily available for review at the Project's field office.

- 12.1.8 The CMAR shall delegate one representative to act as full time Safety Engineer who shall be responsible to maintain all safety requirements of the CMAR or Contract Documents, and shall attend all Project safety meetings scheduled by the Owner's Representative or CMAR.

12.2 SAFETY OF PERSONS AND PROPERTY

- 12.2.1 The CMAR shall submit CMAR's written safety program to the Owner's Representative prior to mobilizing to the Site, and shall be responsible for the safety, efficiency, and adequacy of CMAR's plant, appliances, and methods and for any damage, that might result from failure or improper construction, maintenance, or operation. The CMAR shall provide a safety report to the Owner's Representative on a monthly basis. Notwithstanding the CMAR's submission of CMAR's safety program and monthly safety report to the Owner's Representative, the CMAR remains solely responsible for the safety of CMAR's operations.
- 12.2.2 The CMAR shall take all precautions for the safety of, and shall provide protection to prevent damage, injury, or loss to:
- A. All employees on the Work and all other persons who may be affected thereby;
 - B. All the Work and all materials and equipment to be incorporated therein, whether in storage on or off the Site, under the care, custody, or control of the CMAR or any of its Subcontractors;
 - C. Other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction; and
 - D. The Project or operations and employees of the Owner or other persons or entities.
- 12.2.3 The CMAR shall not permit any construction technique or activity, which decreases building security or safety. CMAR shall cooperate fully with the Owner's Representative's requirements regarding security and safety of the building.
- 12.2.4 The CMAR shall provide, erect, maintain, dismantle, and remove, as required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including installing fencing and posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying the owners and users of adjacent utilities, to complete the Work. CMAR shall protect the all property (real and personal) from injury or loss arising in connection with the Agreement. CMAR shall adequately protect adjacent property as provided by law and the Contract Documents. CMAR shall provide and maintain all passageways, guard fences, light, and other facilities

for protection required by public authority, local conditions, or any of the Contract Documents, and at no time remove, alter, or render ineffective any barricades, railings, or cover on the Project without written permission of the Owner's Representative. Where these safety devices are to be turned over to others, upon Substantial Completion of the Work, the devices shall be repaired or replaced so that they meet the required standards prior to turnover.

12.2.5 [INTENTIONALLY OMITTED]

12.2.6 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the Work, the CMAR shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel. Fuel for cutting and burning torches shall be stored in locations and protected as directed by the Owner's Representative. No volatile liquids shall be used for the cleaning agents or as fuels for motorized equipment or tools within a building except with the express written approval of the Owner's Representative. Bulk storage of volatile liquids shall be outside and only those certain and limited at locations directed by the Owner's Representative and only so much volatile liquid as shall be permitted with the prior consent of the Owner's Representative shall be allowed at any given time.

12.2.7 The CMAR shall promptly remedy all damage to any property referred to in this Article caused in whole or in part by the CMAR, its Subcontractors, its Sub-subcontractors, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

12.2.8 The CMAR shall take all precautions required to prevent fires as a result of CMAR's operations. Where flame cutting torches, blow torches, or welding tools are required to be used within an existing building, their use shall be as approved by the Owner's Representative at the Site. When welding tools or torches of any kind are in use, the CMAR shall have available, in the immediate vicinity of the Work, a fire extinguisher of the CO₂ type. The fire extinguisher shall be provided and maintained by the CMAR.

12.2.9 Every employee will be appropriately dressed for the work he or she performs.

12.2.10 The CMAR shall not load or permit any part of the Work to be loaded so as to endanger its safety.

12.3 EMERGENCIES

In any emergency affecting the safety of persons or major property damage, the CMAR, without special instruction or authorization from the Owner's Representative or the A/E, shall act to prevent threatened damage, injury, or loss and shall immediately notify the Owner's Representative of any such emergency. Any

additional compensation or extension of time claimed by the CMAR on account of emergency work shall be determined as provided in the Contract Documents.

ARTICLE 13 - UNCOVERING AND CORRECTION OF WORK

13.1 UNCOVERING OF WORK

13.1.1 If any portion of the Work should be covered contrary to the request of the Owner's Representative or A/E, or to requirements expressed in the Contract Documents, it must, if required in writing by the Owner's Representative, be uncovered for observation and replaced, at the CMAR's Sole Cost and Expense.

13.1.2 If any other portion of the Work has been covered which neither the Owner's Representative nor the A/E has specifically requested to observe prior to being covered, the A/E or Owner's Representative may request to see such Work and it shall be uncovered by the CMAR. If such Work be found in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work be found not in accordance with the Contract Documents, the CMAR shall bear all costs of correcting such rejected Work, including compensation for the A/E's and/or Owner's Representative's additional services made necessary thereby.

13.2 CORRECTION OF WORK

13.2.1 The CMAR shall promptly correct all Work rejected by the A/E or the Owner's Representative as Defective Work or as failing to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed, or completed. The CMAR shall bear all costs of correcting such rejected Work, including compensation for the A/E's and/or Owner's Representative's additional services made necessary thereby.

13.2.2 If, within one (1) year after the Date of Substantial Completion of Work or designated portion thereof, or within one (1) year after acceptance by the Owner of designated equipment, or within such longer period of time as may be prescribed by law, or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be Defective Work or is otherwise not in accordance with the Contract Documents, the CMAR shall correct it promptly after receipt of a written notice from the Owner to do so, unless the Owner or Owner's Representative has previously given the CMAR a written acceptance of such condition. This corrective period shall be extended with respect to portions of Work performed after issuance of a Certificate of Substantial

Completion for the Work by the period of time between such date and the actual performance of the Work. Corrective Work shall be warranted to be free from defects for a period equal to the longer of six (6) months after the completion of the corrective Work or one (1) year after the date of issuance of a Certificate of Substantial Completion for the Work (subject to extension as previously described) or such longer period of time as may be prescribed by law, or expiration of the term of any applicable special warranty, if applicable, required by the Contract Documents. Any defect in such Work shall be corrected again by CMAR promptly upon notice of the defect from the Owner.

- 13.2.3 The CMAR shall remove from the Site all portions of the Work which are Defective Work or non-conforming and which have not been corrected, unless removal has been waived by the Owner's Representative.
- 13.2.4 If the CMAR fails to correct non-conforming or Defective Work, the Owner may correct it in accordance with the Contract Documents.
- 13.2.5 If the CMAR does not proceed with the correction of such non-conforming or Defective Work within a reasonable time fixed by written notice from the Owner's Representative, the Owner may remove it and may store the materials or equipment at the expense of the CMAR. If the CMAR does not pay the cost of such removal and storage within ten (10) days thereafter, the Owner may sell such materials or equipment at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the CMAR, including compensation for the Owner's additional services made necessary thereby. If such proceeds of sale do not cover all costs which the CMAR should have borne, the difference shall be charged to the CMAR and an appropriate Change Order shall be issued. If the payments then or thereafter due the CMAR are not sufficient to cover such amount, the CMAR shall pay the difference to the Owner.
- 13.2.6 The CMAR shall bear the cost of repairing all work of the Owner or other Separate Contractors destroyed or damaged by such removal or correction.
- 13.2.7 Nothing contained in this Article shall be construed to establish a period of limitation with respect to any other obligation which the CMAR might have under the Contract Documents. The establishment of the time period of one (1) year after the date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents, relates only to the specific obligation of the CMAR to correct the Work, and has no relationship to the time within which CMAR's obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the CMAR's liability with respect to CMAR's obligations other than specifically to correct the Work.

- 13.2.8 Except as provided under the preceding Subparagraph, the commencement of the specified guaranty or correction of Work periods covered by this Article, or any other special specified period, shall be the date of the Substantial Completion of the last unit, part, or phase of the Work, except for any Work then noted as incomplete or unsatisfactory. The guarantee period for said incomplete or unsatisfactory Work shall start on the date of final correction or remedy and the acceptance of these features by the A/E or the Owner's Representative. In the absence of specifically noted dates, the date of Substantial Completion on the entire Agreement will be the start of the guarantee period. Use of the Work shall not be the start of the commencing guarantee periods at any earlier date.
- 13.2.9 The specified correction of Work or general guarantee periods, or other special guarantees, specified for other periods of time, or by law, shall not be limited by any warranty of a manufacturer, producer, supplier, or Subcontractor or other course. The specified guarantees shall be provided by the CMAR, who shall make CMAR's own arrangements with the manufacturer, producer, supplier, Subcontractor, or other source as CMAR may choose. Where the manufacturer, producer, supplier, or Subcontractor guarantees or provides warranties, they shall be passed to the Owner, the same as though they were specified under this Article.
- 13.2.10 Except as provided in the Contract Documents, should special circumstances indicate that an earlier commencement of guarantee or correction of Work periods than on Substantial Completion is reasonable for certain parts of the Work in the opinion of the Owner's Representative, the Owner's Representative may consider such earlier start provided suitable credit is given the Owner. An earlier start of the periods shall be only with the Owner's Representative's written approval of the time and acceptance of the credit by a Change Order.
- 13.2.11 The expiration of any guarantee or correction of Work period shall not relieve the CMAR of the obligation to correct, at CMAR's Sole Cost and Expense, any defect in the Work or deficiencies which are not readily ascertained, including, but not limited to, Defective materials and workmanship, defects attributable to substitutions for specified materials, substandard performance, or any of the Work, otherwise not in compliance with the Contract Documents. Such defect or deficiencies shall be corrected as provided in this Paragraph. Following the correction or replacement of any of the Work, as above specified, the CMAR shall correct any defects or deficiencies in the corrected or replaced materials and workmanship, which is found within one (1) year after the date of correction or replacement. CMAR shall remain responsible for any breach of contract or other liability for the entire time provided by the applicable statute of repose.

13.3 ACCEPTANCE OF NON-CONFORMING WORK

If the Owner's Representative decides to accept Defective or non-conforming Work, the Owner's Representative may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect an appropriate reduction in the GMP for the difference in value together with an allowance for damage or loss of quality. The amount shall be determined by the Owner's Representative and shall be effected whether or not Final Payment has been made.

ARTICLE 14 - [INTENTIONALLY OMITTED]

ARTICLE 15- [INTENTIONALLY OMITTED]

ARTICLE 16 - GENERAL REQUIREMENTS

16.1 CMAR'S USE OF SITE

- 16.1.1 The CMAR shall limit CMAR's use of the Site for Work and for storage. CMAR shall cooperate with each Separate Contractor hired by Owner on the Project or under the direction of the Owner's Representative on the Project.
- 16.1.2 The CMAR shall, at all times, conduct operations so as to insure the least inconvenience to the Owner and to the general public.
- 16.1.3 The CMAR shall assume full responsibility for the protection and safekeeping of Products under CMAR's contract, stored on the Site.
- 16.1.4 On-Site storage space for the CMAR's field office trailer, sheds, materials, tools, equipment, and supplies must be coordinated with and approved by the Owner's Representative in advance. The CMAR's materials, equipment, tools, supplies, trailers, and sheds shall be moved At No Additional Cost if their location obstructs or impedes the Work of others.
- 16.1.5 The CMAR shall obtain and pay for the use of additional storage or Work areas needed for operations as Cost of Work with Owner's Representative's written approval, if existing areas are not available.
- 16.1.6 The CMAR shall not load structures with weights, which will endanger the structure.

- 16.1.7 The CMAR's use of the Project Site is solely for the exclusive purpose of this Work and shall not use the site for any other project.
- 16.1.8 The Project Site shall, at all times, be maintained in a safe and orderly condition.
- 16.1.9 Neither the CMAR nor any Subcontractor, Supplier or other person for whom the CMAR is responsible shall, without the Owner's prior written consent, install or maintain any sign, trademark, advertisement, or other identification symbol in or about the Project Site.
- 16.1.10 All existing walks, roadways, paved or landscaped areas over which temporary driveways or walks are rerouted, or which otherwise damaged or altered, shall be restored to their original condition immediately upon completion of the related phases or portions of the Work, unless otherwise specified in the contract documents.
- 16.1.11 The Owner, the Owner's Representative, the A/E, and such other persons as the Owner may permit shall have the right to enter the Project Site at any time.
- 16.1.12 The CMAR shall be responsible for all de-watering, pumping, draining and control of surface and ground water in connection with the Work; such activities shall be carried out so as to avoid endangering the Work or any adjacent facility or property, or interrupting, restricting or otherwise interfering with the use thereof.
- 16.1.13 The CMAR shall furnish Project signage as directed by the Owner's Representative, all costs of which are included in the GMP.

16.2 SURVEYS

- 16.2.1 A licensed surveyor shall be employed by the Owner for initial layout of the building Site. CMAR shall provide site survey, base lines, benchmarks, etc., as indicated on the Site plan. CMAR shall make periodic surveys to verify the line and grade of the various aspects of the Work.
- 16.2.3 After new subsurface and above-grade walls or other elements of the Work are in place, the CMAR shall arrange for and pay all expenses in connection with a wall check by registered land surveyor or professional engineer, who shall certify to the Owner their location and accuracy in accordance with the Contract Documents.
- 16.2.3 The CMAR shall establish center-lines and benchmarks as required, extending these up through the building as the Work progresses. The

CMAR shall lay out CMAR's work from these references and shall be responsible for the accuracy of its own Work. All survey and layout reference points shall be recorded in as-built drawings and provided to Owner's Representative as part of the Final Completion of the Project.

- 16.2.4 Any discrepancies or errors in the drawings perceived by the CMAR shall be immediately reported to the Owner's Representative and A/E and corrections shall be made in accordance with instructions given by the A/E.

16.3 CUTTING AND PATCHING

- 16.3.1 The CMAR shall be responsible for all cutting, fitting, patching, excavation, and backfill required to complete CMAR's Work, including uncovering portions of the Work to provide for installation of ill-timed Work; removing and replacing Defective Work; removing and replacing Work not conforming to the requirements of the Contract Documents; and removing Samples of installed Work as specified for testing.
- 16.3.2 The CMAR shall submit a written request to the Owner's Representative and A/E prior to executing any cutting, alteration, or excavation which affects the Work of the Owner or which may affect the safety of any other Separate Contractors or which may affect the structural safety of any portion of the Project. This request shall include as a minimum the effect on the Work of the Owner or any Separate Contractor hired by Owner, or on the structural integrity of the Project; the necessity for doing the cutting, alteration, or excavation; a description of the proposed Work and the extent of refinishing to be done. No cutting of structural elements will be permitted without the A/E's prior approval.
- 16.3.3 The CMAR shall provide:
- A. All necessary shoring, bracing, and other support to assure the structural safety of that portion of the Work;
 - B. All necessary devices and methods to protect other portions of the Project from damage, including but not limited to temporary partitions and dust enclosures as required; and
 - C. All necessary protection from the elements for that portion of the Project which may be Exposed by cutting and patching work, and pumping to maintain excavations free from water.
- 16.3.4 The CMAR shall restore Work which has been cut or removed and install new Products to provide completed Work in accordance with the requirements of the Contract Documents. CMAR shall refinish entire surfaces as necessary to provide an even finish to match adjacent finishes.

For continuous surfaces, CMAR shall refinish the entire unit.

16.4 INTENTIONALLY OMITTED

16.5 INTENTIONALLY OMITTED

16.6 SHOP DRAWINGS, PRODUCT DATA, SAMPLES, AND SUBSTITUTIONS

16.6.1 All Shop Drawings, Product Data sheets, and Sample submittals shall be transmitted to the A/E by CMAR and shall include:

- A. Date and revision dates
- B. Project title and number
- C. The names of:
 - 1. A/E
 - 2. CMAR
 - 3. Subcontractor
 - 4. Supplier
 - 5. Manufacturer
 - 6. Separate detailer when pertinent
- D. Number of Shop Drawings, Product Data, and Sample submitted.
(System to be established by CMAR.)
- E. Identification of Product or material.
- F. Relation to adjacent structure or materials
- G. Field dimensions, clearly identified as such
- H. Specification Section number and paragraph
- I. Applicable standards, such as ASTM number or Federal Specification
- J. A blank space, minimum of 2-1/2 by 2-1/2 inches, for the A/E's stamp and notes
- K. Identification of deviations from Contract Documents
- L. Other pertinent data
- M. CMAR's Stamp of Review

16.6.2 Shop Drawing submittals to the A/E shall be submitted in the following quantities unless otherwise specifically required in the Specifications:

Reproducible Shop Drawing - one sepia and two prints
Printed catalog cuts or Product Data - eight sets
Samples - three sets

16.6.3 After review by the A/E, the A/E will return one sepia of reproducible Shop Drawings to CMAR, which will have been stamped as follows:

- A. "Exceptions as Noted" indicates that data or Shop Drawings must be revised, and new Shop Drawings or data must be prepared and resubmitted. Shop Drawings and data marked in this manner shall not be released for fabrication or construction.

- B. "No Exceptions, Conditions Noted," indicates that the submittal is approved, subject to corrections or conditions noted. Shop Drawings may be released for fabrication of Work. The submittal shall be corrected and new Shop Drawings submitted for final approval if a "Resubmit" response is indicated.
 - C. "No Exceptions Taken" indicates final action. The A/E did not find any concerns or apparent failure to conform to the requirements of the Contract Documents. The Shop Drawing or submittal may be used as submitted; however, the CMAR remains responsible for the submitted drawing or material to function as intended, fit into the location desired, and otherwise conform to the Contract Documents. No changes shall be made on approved drawings. If the CMAR requires a change, CMAR shall notify the A/E, in writing, that the approved set has been withdrawn and shall submit the substitution set in accordance with the above procedure.
 - D. Reproducible Shop Drawings and printed material that are require revisions shall be corrected and resubmitted to the A/E within seven (7) days.
- 16.6.4 The CMAR shall be responsible for the delays caused by need to resubmit any submittal due to inadequate, incomplete or incorrect Shop Drawings and manufacturers' data.
- 16.6.5 The CMAR shall reference the details on Shop Drawings to the sheet, details, schedule, or room numbers shown on the Contract Documents.
- 16.6.6 It is understood that the A/E's notations on the submittals are not to be construed as an authorization for additional work or additional cost. If CMAR assents that any notations represent a change to the GMP, the CMAR shall submit a Notice of Potential Claim and a cost proposal to the Owner's Representative for the change in accordance with the procedures specified before proceeding with the Work. The CMAR shall notify the A/E by letter within five (5) days of any notations made by the A/E, which the CMAR disputes or disagrees with or which requires clarification or additional information. Such issues shall be resolved prior to the CMAR proceeding with the Work.
- 16.6.7 Notwithstanding any reference in the Specifications to any article, device, Product, material, fixture, form, or type of construction by name, make, or catalog number, such references shall be interpreted as establishing a standard of quality and shall not be construed as limiting competition, and the CMAR, in such cases, may at CMAR's option, submit and use any article, device, Product material, fixture, form, or type of construction

which in the judgment of the A/E, expressed in writing, is equal to that specified pursuant to the provisions of Contract Documents.

- 16.6.8 If the CMAR proposes to use a material which, while suitable for the intended use, deviates in any way from the detailed requirements of the Contract Documents, CMAR shall inform the A/E in writing of the nature of such deviations at the time the material is submitted for approval, and shall request a written approval of the deviation from the requirements of the Contract Documents.

16.7 [INTENTIONALLY OMITTED]

16.8 [INTENTIONALLY OMITTED]

16.9 INSPECTION, TESTING, REPORTS

- 16.9.1 The services of a testing and inspection firm selected by the Owner shall be provided and paid for by the Owner for tests and inspections required unless specifically stated otherwise or due to deficient Work. CMAR shall provide testing and inspections necessary for Q/C QA. The testing services required include but are not limited to:

Asphalt concrete paving	Exterior Work
Portland cement concrete	Fireproofing
paving Concrete	Vapor emissions
reinforcement Cast-in-	Foundation
place concrete	bearing Vibration
Structural Steel	monitoring Test

- 16.9.2 The CMAR shall cooperate with the testing firm and shall provide such casual labor and facilities as necessary to facilitate the inspection and testing services.
- 16.9.3 The testing firm shall make all inspections and tests required to establish compliance with the Contract Documents. When the initial tests indicate non-compliance with the Contract Documents, any subsequent re-testing shall be performed by the same agency and the cost thereof shall be borne by the CMAR.
- 16.9.4 Representatives of the testing firm shall have access to the Work at all times and the CMAR shall provide facilities so that the testing firm may properly perform its functions.
- 16.9.5 Any materials which fail to meet the requirements of the Specifications shall not be used whether or not previously approved by the A/E. If they have been delivered to the Site, they shall be removed. If they have already

been incorporated into the construction, the Owner's Representative may order them removed, or, at the discretion of the Owner's Representative, they may be permitted to remain in place, provided the CMAR agrees to a proper deduction from the GMP.

16.10 TEMPORARY FACILITIES AND CONTROLS

- 16.10.1 Unless otherwise specified in the Contract Documents, the CMAR shall furnish, install, and maintain temporary facilities and controls required for the Work for CMAR's personnel. The CMAR shall remove such temporary facilities and controls upon Substantial Completion of CMAR's Work. All facilities and controls shall comply with federal, state, and local codes and safety regulations.
- 16.10.2 The CMAR shall provide construction aids and equipment required to assure safety for CMAR's personnel and to facilitate the execution of the Work; scaffolds, staging, ladders, stairs, ramps, runways, platforms, railings, hoists, cranes, chutes, and other such equipment unless such items are specifically designated as being provided by the Owner in the Contract Documents.
- 16.10.3 The CMAR shall relocate temporary facilities as required by the progress of construction, by storage or work requirements, or to accommodate the requirements of the Owner.
- 16.10.4 At the Substantial Completion of the CMAR's Work or when otherwise directed by the Owner's Representative, the CMAR shall completely remove temporary structures, materials, equipment, and facilities installed by the CMAR. The CMAR shall repair any damage caused by the installation or use of the temporary facilities and clean-up after removal.

16.11 TEMPORARY SERVICES

- 16.11.1 [INTENTIONALLY OMITTED]
- 16.11.2 [INTENTIONALLY OMITTED]
- 16.11.3 The CMAR will provide temporary fire safety equipment for general use. Each Subcontractor of the CMAR and Sub-subcontractor shall provide their own fire extinguishers for their trailers, and for use, as required, when cutting and burning are performed.
- 16.11.4 The CMAR shall be responsible for furnishing, installing, or otherwise providing any or all of the following temporary facilities, structures, or services as they may be necessary or required for, or during, performance of the Work of CMAR's contract, including but not limited to the following:

- A. Temporary field office facilities complete, including all furniture, heat, cooling, lighting, telephone, plumbing, and toilet fixtures as CMAR may require for CMAR's exclusive use. (Site location and number are subject to approval of the Owner's Representative.)
- B. Temporary storage facilities, sheds, or building as may be required for the proper protection or storage of materials and/or equipment. (Site location and number are subject to approval of the Owner's Representative.)
- C. Temporary extension from, and hook-up to, all temporary utilities which have been provided to a common point for use by the CMAR during construction.
- D. Maintenance, clean-up, and removal of all temporary facilities provided by the CMAR for CMAR's exclusive use.
- E. Furnishing, erection, maintenance, and removal of all temporary hoists and scaffolding as may be required by the CMAR for the performance of the Work.
- F. Temporary drainage and dewatering measures including all pumping, drainage, erosion control, or other means required to protect the Work of the CMAR while in progress.
- G. All temporary facilities, structures, services, or items of work specifically required or defined in the Scope of Work of the Agreement or otherwise required by the Contract Documents for CMAR's Work.
- H. Distribution of drinking water for CMAR's construction personnel.
- I. At the end of the day's Work, all Work subject to damage by adverse weather conditions shall be covered or otherwise protected. Weather protection shall be adequate to permit the CMAR to work on a continuous basis without shutdown due to temperature or weather conditions as far as possible.
- J. No temporary service shall be removed or disconnected until the new parts have been installed to replace them, properly connected and ready for use. The changing over from temporary to permanent Work shall be done expeditiously, and, if possible, so that no part of the building or premises shall be without adequate service. If this is not possible, the procedure must be planned and submitted to the Owner's Representative for approval.
- K. All temp facilities in Contract and not addressed herein.

16.12 TEMPORARY ELECTRICAL WORK

- 16.12.1 The CMAR shall provide temporary electrical service required for power and lighting for the Work. The CMAR shall pay all costs of materials and installation required for the temporary electrical service. Use of electricity for basic heating of trailers will not be allowed. All equipment and wiring

shall be installed in strict conformance to all applicable requirements of the National Electrical Code.

- 16.12.2 As the Work progresses, the CMAR shall extend the temporary electrical service to the distribution points within the building. These distribution points will provide panel board for breakers for lighting and hand tool circuits throughout the area served. As the Work progresses, the lighting and hand tool circuits will be installed throughout the building.
- 16.12.3 Temporary lighting shall be installed in all areas and rooms, including all platforms, levels, and stairways but excluding crawl spaces, duct and riser shafts. Temporary lighting shall be a minimum of 1/4 watt per square foot. For areas 3,200 SF or less, the equivalent of 100 watt lamps spaced on approximately 20 foot centers, shall be used. Each room or enclosed area shall have the equivalent of at least one 100 watt lamp. The furnishing and installing of all lamps, lamp guards, and maintenance of the lighting will be by the CMAR. Sufficient branch circuits will be provided to enable lighting for individual areas to be turned off at the end of each working day, except areas such as stairwells and similar areas as designated by the Owner's Representative to remain lighted after Work hours.
- 16.12.4 Temporary power for general use for power hand tools and for task lighting shall be provided by 4-gang outlets at each floor level, spaced so that each area of work can be reached with a 100' extension cord. A separate 120 volt, 20 amp circuit will be provided for each 4-gang outlet.
- 16.12.5 All grounding as required by the National Electrical Code or any and all local codes, including ground fault interrupters, shall be furnished and installed by the CMAR to cover each power branch circuit or each individual power outlet.
- 16.12.6 The temporary electrical service will be maintained during the normal work week which is defined as five (5) days a week, including one-half (1/2) hour before regular working hours and one-half (1/2) hour after regular working hours for every trade and during any overtime in which Work is to be performed.
- 16.12.7 If temporary wiring interferes with construction, the removal and relocation of the wiring as required to avoid any interference will be provided At No Additional Cost to the Owner. The CMAR shall remove all wiring and equipment of the temporary electrical service At No Additional Cost at the Substantial Completion of the Work or as required by the Owner's Representative.
- 16.12.8 Any temporary lighting required beyond that specified above shall be provided by the party requiring the same At No Additional Cost to the

Owner.

16.13 TEMPORARY HEAT AND VENTILATION

- 16.13.1 The CMAR shall provide temporary heat and ventilation as required to maintain adequate environmental conditions to facilitate the progress of the Work, to meet specified minimum conditions for the installation and proper curing of CMAR's materials, and to protect materials and finishes from damage due to temperature or humidity. CMAR shall provide adequate forced ventilation of enclosed areas for curing of installed materials, to disperse humidity, and to prevent hazardous accumulations of dust, fumes, vapors, or gases.
- 16.13.2 Portable heaters shall be standard units complete with safety controls. When used in enclosed areas, provide combustion air and vent direct-fired units to the exterior. Salamander heaters will not be permitted.
- 16.13.3 Subject to the Force Majeure and Owner Delay provisions of the Contract Documents, the CMAR is absolutely obligated to adhere to the approved Contract Time, regardless of weather conditions during the period when the Work is scheduled to be performed. All required Work and the cost thereof to meet this obligation shall be included in the GMP. No claim by the CMAR for an extension of Contract Time or for an increase in GMP will be honored by the Owner if such claim is based upon the cost of providing construction heat as specified above.

16.14 TEMPORARY WATER

16.14.1 [INTENTIONALLY OMITTED]

16.14.2 The CMAR is responsible for providing hoses to bring water to the Work areas. Only heavy duty 3/4" hose in good condition will be permitted in use in the interior of the building. The discharge end of each hose shall be equipped with a means of positive shut off. The use of hoses which leak at connections or elsewhere through their length will not be permitted. All hoses shall be disconnected from hose bibs when not in use and before the end of each Work day.

16.14.3 The CMAR shall provide sanitary drinking water dispensers for use of CMAR's own personnel, convenient to their work stations.

16.15 RUBBISH

16.15.1 The CMAR will provide a trash container service to remove rubbish from the Site. The location of the trash container(s) will be determined by the Owner's Representative.

- 16.15.2 The CMAR shall be responsible for depositing rubbish in the containers provided, by use of approved means, for removal from the building or Site. All crates and cartons are to be broken down to minimum volume before depositing them in the trash containers.
- 16.15.3 The burning of refuse on the Site will not be permitted.
- 16.15.4 Waste material and rubbish shall not be thrown from upper levels to lower levels or to the ground.
- 16.15.5 Protruding nails in boards, planks, timbers, etc., shall be removed, hammered in, or bent over flush with the wood.
- 16.15.6 The CMAR is responsible for the disposal of hazardous wastes from construction Products and materials related to the construction Work in accordance with the applicable laws and regulations.

16.16 CLEANING, HOUSEKEEPING

- 16.16.1 The CMAR shall be responsible for daily and final clean-up and continuous removal of all rubbish and debris from the building and Site. The CMAR shall provide, erect, locate, and maintain a rubbish collection dumpster system for use of all Trades. Each Subcontractor of the CMAR shall be responsible to deposit CMAR's daily rubbish into these dumpsters. Failure of the CMAR to do so will require that this be done by the Owner after proper notice to CMAR with the failure of CMAR to do so and labor for doing so shall be charged to the CMAR.
- 16.16.2 [INTENTIONALLY OMITTED]
- 16.16.3 Debris of a flammable nature shall not be allowed to accumulate on the floor and when, in the opinion of the Owner's Representative, a potentially hazardous condition exists, the CMAR shall be directed to perform a continuous clean-up.
- 16.16.4 The Project Site shall be maintained in a neat orderly condition and kept free from accumulations of waste materials and rubbish during the entire construction period. The CMAR will remove all crates, cartons, and other flammable waste materials or trash from the work areas at the end of each working day.
- 16.16.5 The CMAR shall be responsible for cleaning all surfaces as necessary to make them free of spatters or other deposits of paint, plaster, mortar, concrete, adhesives, roofing, dirt, soil, oil, or any other material foreign to the surface involved.

- 16.166 The CMAR shall be responsible to maintain CMAR's own trailer, storage and work areas in a sanitary condition to minimize the hazard of attracting vermin and breeding mosquitoes. If the CMAR fails to comply, the Owner may do so, and the cost thereof shall be charged to the CMAR. Rodent extermination materials shall be those approved by the local health department or other agency having jurisdiction.
- 16.167 The CMAR shall arrange for the final cleaning of the Project by professional cleaners to remove dust, dirt, fingerprints, labels, etc., from Exposed exterior and interior surfaces and to provide a level of cleanliness appropriate for occupancy and use by the Owner.

16.17 ACCESS ROADS AND VEHICLES

16.17.1 [INTENTIONALLY OMITTED]

- 16.17.2 At all points where trucks will enter paved streets, the CMAR shall provide a suitable means to prevent any mud from being carried onto such adjacent paved streets. All trucks or other vehicles leaving the Site at any time shall be clean of mud and dirt clinging to wheels and exterior body surfaces.
- 16.17.3 Cleaning of concrete equipment shall be conducted in such a manner as to prevent spillage of fluid or concrete to the ground or penetration of existing ground soil. The CMAR shall remove from the Site all residue accumulated from the cleaning operations of concrete equipment.
- 16.17.4 All trucks leaving the Site with earthen materials or loose debris shall be loaded in a manner that will prevent dropping of materials on streets, and, when necessary, shall have suitable coverings fastened over the load before they enter surrounding paved streets. Trucks bringing earthen materials over paved streets to the Site shall be similarly loaded and covered. The CMAR shall conform to all local regulations regarding load limits and be responsible for any costs due to failure to comply with the above.
- 16.17.5 CMAR's failing to adequately clean vehicles or otherwise causing dirt or debris to be deposited on any public street or highway shall be held responsible for all costs in connection with the cleaning thereof whether performed by the CMAR, the Owner, or at the direction of any public authority having jurisdiction.
- 16.17.6 Construction worker's parking may be permitted on the Project Site only in designated areas approved by the Owner's Representative in advance. Any requirements for transport of personnel on the Project Site shall be provided for by the CMAR at CMAR's Sole Cost and Expense.

16.18 GUARDRAILS AND BARRICADES

- 16.18.1 The CMAR shall provide guardrails, barricades, fences, footways, and other devices necessary to secure the Site and to protect personnel and employees at the Site, and the public, against hazards on or adjacent to the Site, or a general nature.
- 16.18.2 The CMAR shall assume responsibility for providing barricades, guardrails, fences, gates, warning signs, warning lights, flags, flagmen, and illuminators, etc., as required to protect their Work, their employees, and the public from their Work.
- 16.18.3 The CMAR shall provide and maintain proper warnings and detour signs at all pedestrian and vehicular closures, intersections, and along detours, directing traffic around closed portions of roadways. CMAR shall, at CMAR's Sole Cost and Expense, wherever necessary or required, provide and maintain fences, temporary roadways, temporary cross signs, watchmen, warning lights and take such other precautions as may be necessary to protect life and property, and shall be responsible for all damages occasioned in any way by CMAR's act or neglect. All barricades and obstructions shall be illuminated at night, and all lights shall be kept on from one-half hour before sunset, until one-half hour after sunrise.
- 16.18.4 When performing any cutting, removal, creating opening or holes, etc., the CMAR, by use of barricades, flagmen, or other means, shall provide protective measures to assure that other workmen or the public are not exposed to potential injury by the operation being conducted.

16.19 PROTECT IDENTIFICATION AND SIGNS

- 16.19.1 The CMAR will provide Project identification signs installed at designated locations at the Site as directed by the Owner's Representative. The only other signs permitted at the Site are warning signs, directional signs, and identification signs at field offices.

16.20 WORKING HOURS

- 16.20.1 This Project will be schedule to operate on a 5-day, 40-hour-per-week basis. The CMAR or its Subcontractors employing trades in the Work whose Work is less than a 40-hour week must provide for coordination of their work as it relates to the work of other trades which work a 40-hour week At No Additional Cost to the Owner. Coordination requirements shall be such that delay or expense to other trades is eliminated. Work performed by the CMAR or its Subcontractors at their own volition outside such customary working hours shall be At No Additional Cost to the Owner.

16.21 PHOTOGRAPHS OF THE SITE

16.21.1 The CMAR shall not take or shall not cause any photo to be taken at the Site without the express approval of the Owner's Representative.

16.21.2 The CMAR shall not issue any press releases or disseminate any information concerning this Project to the news media without the prior approval of the Owner's Representative.

16.22 [INTENTIONALLY OMITTED]

16.23 SAFETY PRECAUTIONS AND PROGRAMS

16.23.1 The CMAR must comply with and is responsible for CMAR's employees' compliance with all Michigan Occupational Safety and Health Administration regulations and with the rules of this Section 16.23. The term "Employee" or "Employees" in this section 16.23.1 refers to employees of the CMAR and any Separate Contractor or its Subcontractors. The requirements contained herein, in the Project Safety Manual, or elsewhere in the Contract Documents shall be minimum standards only. CMAR is responsible for compliance with minimum standards as well as developing a safety program necessary to comply with all regulations and maintain a safe and secure job Site.

16.23.2 Parking will be confined to an assigned area. Owner is not responsible for any loss or damage to vehicles parked in this area.

16.23.3 Employees are permitted only in designated areas. Employees must go to and from these areas by a route designated by the Owner's Representative and are not permitted to linger or to wander into any undesignated area.

16.23.4 Smoking is prohibited in all areas of the Project, except for those specific, limited areas where the Owner's Representative permits smoking.

16.23.5 The possession and use of alcohol or drugs at the facility is prohibited. No Employees appearing to be under the influence of alcohol or drugs will be permitted to enter or remain at the Owner's facility.

16.23.6 All exits, roads, fire equipment, and safety equipment must be kept clear and unobstructed at all times.

16.23.7 The CMAR is required to have CMAR's own OSHA approved first aid kit available at the Site.

16.23.8 No temporary or permanent connection or disconnection may be made to any electrical power, steam, water, or fuel line or to any other pipes,

lines, or tanks until the CMAR obtains approval of the Owner's Representative.

16.23.9 Horseplay on Owner's property is prohibited at all times.

16.23.10 The CMAR must advise Owner's Representative of any intention to bring Hazardous Materials on the Site and provide information on the hazards and precautions to be taken as listed in the applicable Material Safety Data Sheets. Use and storage of Hazardous Materials must be agreed to by the Owner's Representative.

16.23.11 Employees violating any of the above rules will be escorted or barred from the facility by the Owner's Representative.

16.24 OPERATIONS AND MAINTENANCE DATA

16.24.1 The CMAR shall be responsible for compilation of Product Data and related information appropriate to the Agreement for the Owner's maintenance and operation of the Products furnished under the Agreement.

16.24.2 Data shall be submitted in the form of an instructional manual bound in commercial quality three-ring binders. The text shall be either the manufacturer's printed or neatly typewritten data; drawings should be provided with reinforced punched binder tab and bound in with the text; fold large drawings to the size of the text pages. Provide a fly leaf for each separate Product, or each piece of operating equipment, giving the description of the Product and major component parts of equipment. Provide indexed thumb tabs. On the cover of each manual provide the title "Operations and Maintenance Instructions" and list the title of the Project, identity of the separate structure as applicable, and the identity of the general subject matter covered in the manual.

16.24.3 Content of Manual

- A. Neatly typewritten table of contents for each volume, arranged in a systematic order.
- B. Names of contractors
- C. The responsible principal, address and telephone number
- D. A list of each Product required to be included, indexed to the content of the volume
- E. List, with each Product, name, address, and telephone number of:
 - 1. Subcontractor or installer
 - 2. Maintenance Contractor, as appropriate
 - 3. Identify the area of responsibility of each
 - 4. Local source of supply for parts and replacement

- F. Identify each Product by Product name and other identifying symbols as set forth in Contract Documents.

16.24.4 Product Data

- A. Include only those sheets which are pertinent to the specific Product.
- B. Annotate each sheet to:
 - 1. Clearly identify the specific Product or part installed
 - 2. Clearly identify the data applicable to the installation
 - 3. Delete references to inapplicable information

16.24.5 Drawings

- A. Supplement Product Data with drawings as necessary to clearly illustrate:
 - 1. Relations of component parts of equipment and system
 - 2. Control and flow diagrams
- B. Coordinate drawings with information or Record Documents to assure correct illustration of completed installation.
- C. Do not use Record Documents as maintenance drawings
- D. Written text, as required to supplement Product Data for the particular installation:
 - 1. Organize a consistent format under separate headings for different procedures
 - 2. Provide a logical sequence of instructions for each procedure
- E. Original copy of each warranty, bond, and service contract issued:
 - 1. Provide information sheet for Owner's personnel, give:
 - 2. Proper procedures in the event of failure
 - 3. Instances which might affect the validity of warranties or bonds
- F. Submit three (3) copies of complete manual in final form.

16.25 INSTRUCTIONS OF OWNER'S PERSONNEL

- 16.25.1 Prior to final inspection and acceptance, the CMAR shall fully instruct the Owner's designated operating and maintenance personnel of all Products, equipment, and systems. The instruction time will be sufficient to instruct all shifts of the Owner's operation and maintenance personnel. The Operations and Maintenance Manual shall constitute the basis of instruction.

16.26 WARRANTIES AND BONDS

- 16.26.1 The CMAR shall assemble and submit to the A/E, warranties, bonds, and service and maintenance contracts as specified in the respective sections of the Specifications. The table of contents for this submittal shall include the Product or work item, the firm, with the name of the principal, address, and telephone number; scope; data of beginning of the warranty, bond, or service and maintenance contract; duration; information for the Owner's personnel providing the proper procedure in case of failure; and instances which might affect the validity of the warranty or bond.

16.27 ORDER OF PRECEDENCE

- 16.27.1 In the event of any conflict or discrepancy in the provisions of the Contract Documents, the documents shall be interpreted on the basis of the following order or priority:

- A. Supplement/addenda, with later date having greater priority
- B. Construction Agreement between Owner and CMAR
- C. General Conditions
- D. Specifications
- E. Drawings, large scale details and/or schedules
- F. Drawings, small scale

Tab C

#2

ATTACHMENT C
Intentionally Omitted

Tab D

#2

ATTACHMENT D
Scheduling Specification

ATTACHMENT D – SCHEDULING SPECIFICATION

CMAR's Scheduler:

CMAR shall appoint a person to perform scheduling tasks on the Project (hereinafter "Scheduler"), with such person possessing the following minimum qualifications:

1. At least five years experience using the most recent version of Primavera (P6 or equivalent) Project planner software.
2. Prior substantive experience scheduling at least three complex building construction projects, each with a total construction value in excess of ten million dollars (\$10,000,000) each.

The Scheduler shall prepare the Preliminary Project Schedule required by the Preconstruction Services Agreement and the Baseline Schedule, as well as all schedules required by the Contract Documents, any schedule updates, any time impact analysis, and any make up schedules or acceleration schedules required by the Contract Documents. The form of certification, if required by the Owner, will be provided by the Owner upon the Owner's acceptance of the Scheduler. The Scheduler shall attend all Project meetings where scheduling input is necessary, as well attend such other meetings and perform such other duties as required by the Contract Documents. CMARs scheduling meetings shall include the Owner and A/E.

Schedule Requirements.

The CMAR shall employ the Critical Path Method scheduling technique to create and maintain a current and accurate schedule depicting the actual and expected progress of the work and meeting the following requirements:

1.0-Schedule Standards

- 1.1 -The CMAR shall create its schedule using the latest version of Primavera Project Planner (P6 or equivalent), or other software as acceptable to the Owner.
- 1.2 -Each element of Work on the Project shall be shown as an activity or group of activities on the schedule in the detail necessary to accurately depict every step required to complete the project. At least 300 discrete activities shall be included on the Baseline Schedule. The construction phase portion of any schedule shall not have any activities with durations in excess of twenty five calendar days.
- 1.3 -The schedule shall include activities for design development and the procurement of major equipment and material, the delivery date for which shall be the same as provided in the Schedule of Required Submittals.
- 1.4 -The schedule shall include activities that represent the major milestones and completion dates listed within the Contract Documents or specified by the Owner/AE in an addenda.
- 1.5 -The Schedule shall indicate the times of Submittals and as well as time required for fabrication, delivery, if necessary storage, installation, testing and commissioning.

1.6 -The activities shall form a complete network wherein all activities shall have at least one predecessor and one successor. Each activity shall have as many predecessor or successor activities as is necessary to accurately calculate the Critical Path of the Project.

1.7 -The activities shall be connected by "finish-to-start" (FS) logic ties. In the event that relationship between activities cannot be accurately depicted using FS then the CMAR can use logic types that most accurately calculate the float of the activity.

1.8 -The CMAR shall refrain from constraining activity dates in the schedule.

1.9 - The Critical Path shall be the longest continuous chain of activities in the network from the data date of the schedule through the Substantial and Final Completion of the project.

1.10 -The schedule must contain activities that clearly identify information, materials or directions required from the Owner to progress the work.

1.11 -The CMAR shall provide the schedule to the Owner in hard copy print outs in bar chart format, printed landscape on 11"x17" paper with the timescale formatted to fit on 1 page wide, unless otherwise requested in writing by the Owner. The print out shall include columns indicating the Activity ID, Activity Name, Remaining Duration, Start Date, Finish Date and Total Float, and any other dates requested by the Owner as well as in electronic format, readable by the Primavera project Planner software (P6 or equivalent).

1.12 -The schedule shall clearly show the calculated critical path of the project.

1.13 -Schedule calendars must be developed to accurately reflect the working times for each activity based on the specific requirements of the project.

1.14 -The CMAR shall use the scheduling software to resource load the schedule and indicate the specific trade(s) required to perform each activity and the man hours required by each trade, if requested in writing by the Owner.

1.15 -The CMAR must provide a manpower curve for each trade based on the activity duration and sequence as calculated by the scheduling software.

2.0-The Baseline Schedule

2.1 -As required by the Contract Documents, the CMAR shall provide a Baseline Schedule which depicts all major elements of the work and calculates a completion date consistent with the completion dates listed in the Contract. Unless this provision is modified by fully executed change order, the Baseline Schedule shall provide for substantial completions of the Project within 42 months of the Date of Commencement of Work and Final Completion within 90 days after Substantial Completion. The CMAR shall immediately address any exceptions taken by Owner and/or A/E. The Schedule is not properly submitted until the Owner and A/E return the Schedule to the CMAR with "No Exceptions".

2.2 The Baseline Schedule shall include only the Work shown in the Contract documents and intended at the time of award of Contract. The Baseline Schedule shall not reflect any changes, claims, disputes or extra work anticipated on the Project.

3.0-Updating the Schedule

3.1 –At least 10 days before submission of the each Application for Payment, a conference attended by CMAR, CMAR's Scheduler, A/E, A/E's scheduler, and the Owner's Representative will be held to review, for acceptability to Owner and A/E as provided below, the proposed schedule update to be submitted in accordance with this Scheduling Specification. CMAR will have ten (10) days to make corrections and adjustments and to complete and resubmit the schedule updates with the monthly Application for Payment. No payment will be made to CMAR until the current schedule updates are submitted to the Owner and A/E, and until the prior month schedule update has been returned to the CMAR by the A/E with "No Exceptions."

3.2 –The schedule shall be updated to indicate the actual progress of the work since the previous update and the intended sequence of the remaining work.

3.3 –In the event that actual progress of the Work or any modifications to the sequence or duration of the activities causes the completion milestones of the project be delayed beyond the dates indicated in the previous update, the CMAR shall make every effort to re-sequence the Work to eliminate the delay. Unless determined otherwise through the issuance of a Change Order, the cost of the re-sequencing shall be borne by the CMAR.

3.4 –The CMAR shall certify each scheduling submission indicating that it has accurately depicted the critical path of the Project.

3.5 –The CMAR shall provide an electronic copy of each schedule update to the Owner in a format that can be opened with the Primavera Project Planner scheduling software (P6 or equivalent).

3.6 –Each schedule update shall be submitted to the Owner with a narrative report indicating the major changes that occurred including:

3.6.1 –Activities added to the schedule

3.6.2 –Activities deleted from the schedule

3.6.3 –Logic revisions

3.6.4 –Changes to the Critical Path

3.6.5 –Calendar changes

3.6.6 –Added or deleted constraint dates

3.6.7 –Duration Changes

3.6 –The CMAR must provide, with each update, a listing of all activities, (complete with the current float values) that require specific input or direction from the Owner.

3.7 – CMAR may not rename or remove activities included on the baseline schedule, nor divide existing activities into multiple new activities without written authority from Owner. All added activities shall be identified as such and an explanation for the addition included with the update.

4.0-Measurement of Change

4.1 –The only means of changing the completion dates or milestones of the Project is through the Change Order provisions set out in the Contract Documents.

4.2 –The CMAR must identify, at the time that a change in the Work is identified, what, if any, activities are impacted by the change and/or what new activities that are required to sufficiently depict the changed Work in the CPM schedule.

4.3 -No requests for additional time will be granted unless entitlement is demonstrated by a contemporaneous time impact analysis, and other requirements of the Contract Documents are met.

4.4 -All direct and indirect impacts from approved changed conditions must be indicated in the schedule and in accordance with the Contract Documents.

5.0 Schedule Float.

5.1 Any and all float existing, found, or created in the schedule shall belong solely to the Owner, and the Owner may use such float time in the Owner' sole and absolute discretion.

Tab E

#2

ATTACHMENT E
Principal Project Personnel

Job Charge Rate Schedule

			AMOUNT PER HOUR TOTAL RATE	HOURS WORKED	PROPOSED AMOUNT
Construction Staff					
1	Peter Hellekjaer	Executive Support	\$0.00 /hr	0	\$0
2	Tom Salopeck	Pre Con Manager	\$49.68 /hr	866	\$43,026
3	Howard Hoover	Chief Estimator	\$97.18 /hr	866	\$84,156
4	Jim Webber	Estimating	\$80.62 /hr	866	\$69,815
5	Bill Skene	BIM Manager	\$77.44 /hr	69	\$5,365
6	Chris Drake	Elec. Estimator	\$81.59 /hr	520	\$42,394
7	Mike Dulimba	Mech. Estimator	\$80.82 /hr	520	\$41,994
8	Bill Lorelli	Project Manager	\$118.86 /hr	520	\$61,760
9	Dave Burton	Project Executive	\$118.74 /hr	260	\$30,848
10	Donald Wahley	General Supt.	\$116.38 /hr	208	\$24,189
11	Gary Minor	QA / QC Manager	\$103.25 /hr	104	\$10,730
12	Nova Consultants	Commissioning Agent	\$108.41 /hr	104	\$11,266
TOTAL CONSTRUCTION STAFF					
Construction Management Staff					
1	Don Greenwell Jr.	Executive Committee	\$0.00 /hr	0	\$0
2	John Sebastian	Executive Committee	\$0.00 /hr	0	\$0
3	Dave Burton	Project Executive	\$118.74 /hr	1,039	\$123,392
4	Bill Lorelli	Sr. Project Manager	\$118.86 /hr	5,369	\$638,186
5	Donald Wahley	General Supt.	\$116.38 /hr	5,196	\$604,728
6	Tim Schmidt	Asst. PM	\$70.95 /hr	5,196	\$368,679
7	Jason Thureau	Safety Manager	\$51.83 /hr	5,196	\$269,321
8	Mike Pitts	MEP Supt.	\$59.37 /hr	5,542	\$329,060
9	Scott Dunn	A / E Supt.	\$76.27 /hr	5,542	\$422,731
10	Chuck Strickler	Detention Manager	\$100.25 /hr	5,196	\$520,875
11	TBD	Asst. Supt.	\$53.98 /hr	4,850	\$261,758
12	John Lien	Sr. Project Engr	\$84.38 /hr	5,196	\$438,417
13	Eugenia Preda	Project Engineer	\$39.82 /hr	5,023	\$199,999
14	Mark Michon	Project Engineer	\$46.70 /hr	5,196	\$242,674
15	Bill Skene	BIM Manager	\$77.44 /hr	1,386	\$107,297
16	Andy Villa	Accounting	\$51.19 /hr	2,771	\$141,864
17	TBD	Clerical	\$25.81 /hr	5,196	\$134,122
18	Gary Minor	QA / QC Manager	\$103.25 /hr	5,542	\$572,253
19	TBD	Change Management	\$73.73 /hr	1,108	\$81,729
TOTAL CONSTRUCTION MANAGEMENT STAFF					

Tab F

#2

ATTACHMENT F
Safety Manual

To Be Developed

Tab G

#2

ATTACHMENT G
General Conditions and Fee Matrix

Wayne County Consolidated Jail

Walbridge / dck

Exhibit G.1

CMAR Direct cost

Walbridge | dck

Wayne County Consolidated Jail

OCIP

Item	Description	Notes
1	Staff Cost	Revised to 1.475 Multiplier
2	Employee parking fees	
3	CMAR field office	
4	Wayne County field office	
5	Office janitorial	
6	Set up trailers and removal	
7	Walkway and stairs for trailers	
8	Office furnishings	
9	Meeting room furnishings	
10	Temp heat and cooling for trailers	
11	Temp toilets for trailers	
12	Water consumption cost	
13	Job site toilets	
14	Purchase temporary phones	
15	Telephone charges	
16	Cell phone charges	
17	Safety supplies	
18	Safety Incentive program	
19	CMAR drug testing	
20	Fire Extinguishers for trailers	
21	Job site fire extinguishers	
22	Adjust temp fencing	
23	Baricades and opening protection maintenance	
24	Internet and IT support	
25	Computer for sub contractor use	
26	Computers for staff	
27	Fax machines	
28	Copiers	
29	Digital cameras	
30	Office supplies	
31	Computer software licenses	
32	BIM software and licenses	
33	First aid supplies	
34	Refrigerator / Microwave	
35	Postage	
36	Water coolers for trailers / water	
37	CMAR reproduction	
38	As built printing	
39	Staff relocation cost	
40	Project signage	
41	Difference in Insurance coverage	
42	Fee and Pre Construction Overrun	Fixed Fee
43	CMAR P & P Bond	
44	Handrails and toe boards	
45	Final Clean up	
46	Surveying	
	Not To Exceed	\$16,500,000

Tab H

#2

ATTACHMENT H
Insurance Provisions

EXHIBIT "H" INSURANCE PROVISIONS

OWNER CONTROLLED INSURANCE PROGRAM

1.1 Overview. Owner has arranged with Goodman Venegas Insurance Agency, Inc. (the "OCIP Agent of Record") for this Project to be insured under its Owner Controlled Insurance Program ("OCIP"). Goodman Venegas Insurance Agency, Inc. has arranged with Aon Risk Services Central, Inc. (the "OCIP Administrator") to perform certain administrative responsibilities of the OCIP. The OCIP is more fully described in the OCIP and Insurance Manual for the Wayne County Justice Center: Consolidated Central Detention Center, Owner Controlled Insurance Program (the "OCIP and Insurance Manual") that is incorporated in this Exhibit and the Contract Documents by this reference. Parties performing labor or services at the Project site are eligible to enroll in the OCIP unless an Excluded Party (as defined below). The OCIP will provide to Enrolled Parties (as defined below) workers' compensation and employer's liability insurance, commercial general liability insurance, excess liability insurance, as summarily described below, in connection with the performance of the Work ("OCIP Coverages").

1.2 Enrolled Parties and Their Insurance Obligations. OCIP Coverages shall cover Enrolled Parties. Enrolled Parties are: Owner, the OCIP Agent of Record, the OCIP Administrator, CMAR and eligible Subcontractors of any tier who enroll in the OCIP, and such other persons or entities as Owner in its sole discretion may designate (each such party who is insured under the OCIP is collectively referred to as an "Enrolled Party").

Enrolled Parties shall obtain and maintain, and shall require each of its Subcontractors of any tier to obtain and maintain, the insurance coverage specified in 1.8 below and the OCIP and Insurance Manual.

1.3 Excluded Parties and Their Insurance Obligations. OCIP insurance does not cover the following "Excluded Parties":

- (a) Hazardous materials remediation, removal and/or transport companies and their consultants;
- (b) Architects, surveyors, engineers, and soil testing engineers, and their consultants;
- (c) Vendors, suppliers, fabricators, material dealers, truckers, haulers, drivers and others who merely transport, pickup, deliver, or carry materials, personnel, parts or equipment or any other items or persons to or from the Project site;
- (d) Subcontractors of any tier who do not perform any actual labor on the Project site; and
- (e) Any parties or entities not specifically identified in this Exhibit or excluded by Owner in its sole discretion, even if otherwise eligible.

CMAR shall ensure that all excluded Parties and parties no longer enrolled in or covered by the OCIP shall obtain and maintain, and shall require each of such parties' Subcontractors of any tier to obtain and maintain, the insurance coverage specified in 1.8 below and the OCIP and Insurance Manual. CMAR shall ensure that all persons or entities who perform any work in relation to the project are properly enrolled and accepted into the in the OCIP and/or have obtained the insurance coverage required herein.

1.4 OCIP Insurance Policies Establish OCIP Coverages. The OCIP Coverages and exclusions summarized in this Exhibit and the other Contract Documents are set forth in full in their respective

insurance policy forms. The summary descriptions of the OCIP Coverages in this Exhibit or the OCIP and Insurance Manual are not intended to be complete or to alter or amend any provision of the actual OCIP Coverages. In the event any provision of this Exhibit, the OCIP and Insurance Manual, the Contract Documents, or the summary below conflicts with the OCIP insurance policies, the provisions of the actual OCIP insurance policies shall govern.

1.5 Summary of OCIP Coverages. OCIP Coverages shall apply only to those operations of each Enrolled Party performed at the Project site in connection with the Work and only to Enrolled Parties that are eligible for the OCIP. OCIP coverages shall not apply to ineligible parties, even if erroneously enrolled in the OCIP. An Enrolled Party's operations away from the Project site, including product manufacturing, assembling, or otherwise, shall only be covered if such "off-site" operations are identified and are dedicated solely to the Project. OCIP Coverages shall not cover "off-site" operations until receipt by CMAR of written acknowledgment of such coverage from the OCIP Administrator. The OCIP shall provide only the following insurance to eligible and Enrolled Parties:

Summary Only

- | | | |
|--|---|------------------------|
| (1) | Workers' Compensation Insurance | Statutory Limit |
| | This insurance is primary for all occurrences at the Project site | |
| (2) | Employer's Liability Insurance | |
| | Bodily Injury by Accident, each accident | \$2,000,000 |
| | Bodily Injury by Disease, each employee | \$2,000,000 |
| | Bodily Injury by Disease, policy limit | \$2,000,000 |
| | This insurance is primary for all occurrences at the Project site. | |
| (3) | General Liability Insurance Equivalent to ISO Occurrence Form | |
| | Each Occurrence Limit | \$2,000,000 |
| | General Aggregate Limit for all Enrolled Parties | \$4,000,000 |
| | 6 Years Products & Completed Operations Extension | |
| | Products & Completed Operations Aggregate for all Enrolled Parties | \$4,000,000 |
| | This insurance is primary for all occurrences at the Project site. | |
| The OCIP General Liability policy shall not provide coverage for any claim that could be covered under a property policy or builder's risk policy. | | |
| (4) | Excess Liability Insurance (over Employer's Liability & General Liability) | |
| | Combined Single Limit | \$XX,000,000 |
| | General Annual Aggregate for all Enrolled Parties | \$XX,000,000 |
| | 6 Years Products & Completed Operations Extension | |
| | Products & Completed Operations Aggregate for all Enrolled Parties | \$XX,000,000 |

1.6 Owner's Insurance Obligations. Owner shall pay the costs of premiums for the OCIP Coverages. Owner will receive or pay, as the case may be, all adjustments to such costs, whether by way of dividends, retroactive adjustments, return premiums, other moneys due, audits or otherwise. CMAR and each of its Subcontractors of any tier hereby assign to Owner the right to receive all such adjustments. Owner assumes no obligation to provide insurance other than that specified in the OCIP

insurance policies. Owner's furnishing of OCIP Coverages shall in no way relieve or limit, or be construed to relieve or limit, CMAR or any of its Subcontractors (of any tier) of any responsibility, liability, or obligation imposed by the Contract Documents, the OCIP insurance policies, or by law, including without limitation any indemnification obligations which CMAR or any of its Subcontractors of any tier has to Owner thereunder. Owner reserves the right at its option, without obligation to do so, to furnish other insurance coverage of various types and limits provided that such coverage is not less than that specified in the Contract Documents.

1.7 CMAR's OCIP Obligations. CMAR shall:

- (1) Incorporate the terms of this Exhibit in all subcontract agreements.
- (2) Enroll in the OCIP within five (5) days of execution of the Construction Management Agreement and maintain enrollment in the OCIP, and assure that CMAR's eligible Subcontractors of any tier enroll in the OCIP and maintain enrollment in the OCIP within five (5) days of subcontracting and prior to the commencement of Work at the Project site.
- (3) Comply with all of the administrative, safety, insurance, and other requirements outlined in this Exhibit, the OCIP and Insurance Manual, the OCIP insurance policies, or elsewhere in the Contract Documents.
- (4) Provide each of its Subcontractors of any tier with a copy of the OCIP and Insurance Manual and assure Subcontractor's of any tier compliance with the provisions of the OCIP insurance policies, the OCIP and Insurance Manual, this Exhibit, and the Contract Documents. The failure of (a) Owner to include the OCIP and Insurance Manual in the bid documents or (b) CMAR to provide each of its eligible Subcontractors of any tier with a copy of same, shall not relieve CMAR or any of its Subcontractors of any tier from any of the obligations contained therein.
- (5) Accurately and fully complete the Insurance Credit Worksheet (Aon Form-1) and the Insurance Summary Form (Aon Form-2) located in the OCIP and Insurance Manual and submit to Owner prior to commencement of the Work.
- (6) Permit Owner to use CMAR's and Subcontractors' of any tier completed Aon Form-1 and Aon Form-2 and information available to Owner and the OCIP Administrator to calculate CMAR's and each its Subcontractor's (of any tier) reduction in insurance costs due to OCIP insurance coverage ("Insurance Credit"). The OCIP and Insurance Manual outlines the composite rate formula and procedures that Owner will use to collect the Insurance Credit from CMAR. CMAR is solely responsible for the recovery from its Subcontractors of any Insurance Credits attributable to such Subcontractors' eligibility for participation in the OCIP. If unit pricing is the basis for the Contract Sum, Owner may, at its option, apply a per unit Insurance Credit where appropriate. CMAR agrees that Owner is entitled to and may withhold from contract payments the Insurance Credit and a similar Insurance Credit resulting from any scope changes, additional work, or from increases in payroll from that shown on Aon Form-1 and Aon Form-2. Owner may adjust the Insurance Credit based on inaccurate assumptions relating to, or calculations of, the initial Insurance Credit, payroll reports, material misstatements by CMAR or its Subcontractors of any tier, or from information available to Owner or the OCIP Administrator which justifies the taking of additional insurance credits.
- (7) Acknowledge, and require all Subcontractors of any tier to acknowledge in writing, that Owner and the OCIP Administrator are not agents, partners or guarantors of the insurance companies providing coverage under the OCIP (each such insurer, an "OCIP Insurer"), that neither Owner nor OCIP Administrator are responsible for any claims or disputes between or among CMAR, any Subcontractors of any tier, and any OCIP Insurer(s), and that neither Owner nor OCIP Administrator guarantees the solvency or the availability of limits of any OCIP Insurer(s). Any type of insurance coverage or limits of liability in addition to the OCIP Coverages that CMAR or any Subcontractor of any tier requires for its or their own protection, or that is required by applicable laws or regulations, shall be CMAR's or its Subcontractor's (of any tier) sole responsibility and expense and shall not be billed to Owner.

(8) Cooperate fully with the OCIP Administrator and the OCIP Insurers, as applicable, in its or their administration of the OCIP.

(9) Provide, within five (5) business days of Owner's or the OCIP Administrator's request, all documents or information as requested of CMAR or its Subcontractors of any tier. Such information may include but not be limited to, payroll records, certified copies of insurance coverages, declaration pages of coverages, certificates of insurance, underwriting data, prior loss history information, safety records or history, OSHA citations, or such other data or information as Owner, the OCIP Administrator, or OCIP Insurers may request in the administration of the OCIP, or as required by the OCIP and Insurance Manual.

(10) Pay to Owner a sum of up to \$5,000 of each occurrence, including court costs, attorneys fees and costs of defense for bodily injury or property damage to the extent losses payable under the OCIP General Liability Policy are attributable to CMAR's Work, acts or omissions, or the Work, acts or omissions of any of CMAR's Subcontractors of any tier, or any other entity or party for whom CMAR may be responsible ("General Liability Obligation"). The General Liability Obligation shall remain uninsured by CMAR and will not be covered by the OCIP Coverages.

1.8 Additional Insurance Required From Enrolled Parties and Excluded Parties.

CMAR and each Subcontractor of every tier are required to include in their proposal and pricing for the Work, their normal cost for the insurance coverage set out below. CMAR and all tiers of Subcontractors shall not actually provide his coverage to the extent provided by the OCIP policies. CMAR and all tiers of Subcontractors shall provide the insurance set out below for off site work, and for any ineligible or unenrolled Subcontractors of any tier as specified in greater detail in this specification and/or in the OCIP and Insurance Manual. The CMAR is required to enter into a deductive Change Order calculated based on the provisions of this specification and the OCIP and Insurance Manual which reduces the GMP and provides a credit to the Owner for the actual cost that would have been incurred by CMAR and all tiers of Subcontractors for the insurance provide herein.

CMAR shall obtain and maintain, and shall require every Subcontractor of any tier to obtain and maintain, the insurance coverage specified in this Section 1.8 in a form and from insurance companies reasonably acceptable to Owner. The insurance limits may be provided through a combination of primary and excess policies, including the umbrella form of policy. Each policy required under this Section, except the Workers' Compensation policy, shall name ~~Owner and Enrolled Parties as Additional Insureds~~ ~~and all tiers of Subcontractors, agents and employees, and any additional entities as Owner may request as additional insureds. (need complete list of A/I's)~~ The additional insured endorsement shall state that the coverage provided to the additional insureds is primary and non-contributing with respect to any other insurance available to the additional insureds. CMAR shall provide certificates of insurance coverage to the OCIP Administrator as required by the OCIP and Insurance Manual.

As to eligible and Enrolled Parties, the workers' compensation, employer's liability, and commercial general liability insurance required by this Section shall only be for off-site activities or operations not insured under the OCIP Coverages.

- (1) **Comprehensive Automobile Liability Insurance** covering liability arising out of any auto (owned, hired and non-owned) providing limits of liability not less than:

Construction Manager:	\$50,000,000 each accident limit for bodily injury and property damage
Enrolled Party	\$ 1,000,000 each accident limit for bodily injury and property damage

Excluded Party
damage

\$ 3,000,000 each accident limit for bodily injury and property

If the Work requires the removal and transportation of hazardous materials from the Project site, automobile liability insurance shall be amended to include pollution liability coverage applicable to all hazardous waste hauling vehicles and include a MCS90 endorsement.

- (2) Statutory Workers' Compensation Insurance and Employer's Liability insurance with statutory limits as required by law, including Maritime coverage, if appropriate, and Employer's Liability limits of not less than \$1,000,000 each accident/\$1,000,000 each employee/\$1,000,000 policy limit.
- (3) **Commercial General Liability Insurance** in a form providing coverage not less than the standard ISO Commercial General Liability insurance policy ("Occurrence Form").

Construction Mngr.	Enrolled Party	Excluded Party	
Each Occurrence Limit	\$50,000,000	\$1,000,000	\$3,000,000
General Aggregate Limit			
Other Than Products/Completed Operations	\$50,000,000	\$2,000,000	\$3,000,000
Products and Completed Operations Aggregate	\$50,000,000	\$2,000,000	\$3,000,000
Personal Advertising Injury	\$50,000,000	\$1,000,000	\$3,000,000

Coverage shall include premises-operations, independent contractor's protective; products and completed operations; and broad form property damage. Products-Completed Operations coverage must be maintained for all required Additional Insureds from Substantial Completion of the project through the Statute of Repose for the state in which the Project is located or for ten years, whichever is less.

- (4) If required by Owner, Aviation and/or Watercraft Liability Insurance, in form and with limits of liability and from an insuring entity reasonably satisfactory to the Owner.

CMAR's failure to procure or maintain the insurance required by this Article 1.8 and to assure all its Subcontractors of any tier maintain the required insurance during the entire term of the Agreement shall constitute a material breach of this Agreement under which the Owner may immediately suspend or terminate this Agreement or, at its discretion, procure or renew such insurance to protect the Owner's interests and pay any and all premiums in connection therewith, and withhold or recover all monies so paid from the CMAR.

1.9 CMAR Representations and Warranties to Owner. CMAR represents and warrants, on behalf of itself and its Subcontractors of every tier, to Owner:

- (1) That all information they submit to Owner or the OCIP Administrator shall be accurate and complete.
- (2) That they have had the opportunity to read and analyze copies of the OCIP insurance policies that are on file in Owner's Representative's office and that they understand the OCIP Coverages. Any reference or summary in the Contract Documents, this Exhibit, the OCIP and Insurance Manual, or elsewhere in any other Contract Document as to amount, nature, type or extent of OCIP Coverages and/or potential applicability to any potential claim or loss is for reference only. CMAR and its Subcontractors of any tier have not relied upon said reference but solely upon their own independent review and analysis of the OCIP Coverages in formulating any understanding and/or belief as to amount, nature, type

or extent of any OCIP Coverages and/or its potential applicability to any potential claim or loss.

1.10 Audits. CMAR agrees that Owner, the OCIP Administrator, and/or any OCIP Insurer may audit CMAR's or any of its Subcontractor's (of any tier) payroll records, books and records, insurance coverages, insurance cost information, or any other information that CMAR provides to Owner, the OCIP Administrator, or the OCIP Insurers to confirm their accuracy.

1.11 Owner's Election to Modify or Discontinue OCIP. Owner may, for any reason, modify the OCIP Coverages, discontinue the OCIP, or request that CMAR or any of its Subcontractors of any tier withdraw from the OCIP upon thirty (30) days written notice. Upon such notice CMAR and/or one or more of its Subcontractors of any tier, as specified by Owner in such notice, shall obtain and thereafter maintain at Owner's expense to the extent of the Insurance Credit during the performance of the Work, all (or a portion thereof as specified by Owner) of the OCIP Coverages. The form, content, limits of liability, cost, and the insurer issuing such replacement insurance shall be subject to Owner's approval.

1.12 Withhold of Payments. Owner may withhold from any payment owing to CMAR the Insurance Credit applicable to the initial Contract Sum and to all change orders or additions to the Work. In the event of a Owner audit of CMAR's records and information as permitted in the Contract, this Exhibit, or other Contract Documents reveals a discrepancy in the insurance, payroll, safety, or any other information required by the Contract Documents to be provided by CMAR to Owner, or to the OCIP Administrator, or reveals the inclusion of Insurance Credits in any payment for the Work, Owner shall have the right to full deduction from the Contract Price of all such Insurance Credits and all audit costs. Audit costs shall include but not be limited to the fees of the OCIP Administrator, and the fees of attorneys and accountants conducting the audit and review. If the CMAR or its Subcontractors of any tier fail to timely comply with the provisions of this Exhibit, Owner may withhold any payments due CMAR and its Subcontractors of any tier until such time as they have performed the requirements of this Exhibit.

1.13 Waiver of Subrogation. Where permitted by law, CMAR hereby waives all rights of recovery by subrogation because of deductible clauses, inadequacy of limits of any insurance policy, limitations or exclusions of coverage, or any other reason against Owner, the OCIP Administrator, the Indemnified Parties, its or their officers, agents, or employees, and any other CMAR or Subcontractor performing Work or rendering services on behalf of Owner in connection with the planning, development and construction of the Project. CMAR shall also require that all CMAR maintained insurance coverage related to the Work to include clauses providing that each insurer shall waive all of its rights of recovery by subrogation against CMAR together with the same parties referenced immediately above in this Section. Where permitted by law, CMAR shall require similar written express waivers and insurance clauses from each of its Subcontractors of any tier. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

1.14 Duty of Care. Nothing contained in this Exhibit or the OCIP and Insurance Manual shall relieve the CMAR or any of its Subcontractors of any tier of their respective obligations to exercise due care in the performance of their duties in connection with the Work and to complete the Work in strict compliance with the Contract Documents.

1.15 **Conflicts.** In the event of a conflict, the provisions of this Exhibit shall govern, then the provisions of the Contract and its other related Contract Documents, then the provisions of the OCIP and Insurance Manual.

1.16 **Safety.** CMAR shall be solely responsible for safety on the project. CMAR shall establish a safety program that, at a minimum, complies with all local, state and federal safety standards, and any safety standards established by Owner for the Project or required by the OCIP insurers. Safety provisions in the Contract Documents, including the Safety Manual shall be considered minimum standards only and compliance with these standards shall not relieve CMAR from the responsibility to comply with all safety laws regulations and requirements, do develop a safety programs necessary to ensure the safety of workers and visitors and members of the public as well as property of CMAR and others.



OCIP Summary for Wayne County Jail

OCIP Overview

The following on-site coverage will be provided by the Wayne County Building Authority for the Wayne County Consolidated Jail Facility project to all **enrolled Contractors Parties**:

- Workers' Compensation
- Employers' Liability
- General Liability
- Excess Liability

Note: Auto Liability (on-site and off-site) is CMAR's responsibility

- Enrollment is mandatory for CMAR and Subcontractor, of any tier, performing labor on-site, unless specifically excluded by Wayne Co. Building Authority.

Bidding & Insurance Cost Calculations

Forms to Submit to Aon

CMAR and all Subcontractors of any tier are to complete and submit the **Insurance Cost Worksheet (Aon Form 1)**. This form itemizes and calculates your traditional insurance cost

You must also submit your current WC, GL and Umbrella policy rate pages to verify the numbers used on the *Aon Form 1*. This form cannot be processed without rate pages.

CMAR is to include the cost of insurance in their bid. Upon verification, the cost of insurance will be removed from your contract by Wayne Co. Building Authority through deductive Change Order.

Complete a separate form for each Subcontractor, known sub-subcontractor and trade not currently awarded to a subcontractor. Duplicate this form as needed. Completion of this form is a required part of your bid and must accompany your bid documents.

A. Subcontractor Information

- 1 Enter your company's Federal ID number. This number can be found on filings made to the federal government such as your tax return.
- 2 Enter your company's name, mailing address and phone/fax number for your company's headquarters in the space provided below.
- 3 Enter the name of the person Aon should contact if questions arise. Include the mailing address, phone/fax and E-mail address in the space provided below.

B. Bid Information

- 1 Enter the Bid Package Number or Purchase Order Number that was included in originating documentation.
- 2 Provide a brief description of the work you will be performing at the Project site.
- 3 Identify the total amount bid.
- 4 Identify the percentage of work that you anticipate will be self-performed.
- 5 Check the appropriate box that identifies your Subcontract.
- 6 If you are a Subcontractor, identify the entity you are under Subcontract with.

C. Workers' Compensation Insurance Information *(Duplicate or attach additional sheets if necessary. You may create an electronic version of this document if all requested information is included):*

- a Enter the 2-digit abbreviation for the state in which the work will be performed.
- b Enter the 4 digit Workers' Compensation class code that applies to the work identified in B2.
- c Enter the Workers' Compensation class code description that applies to the work identified in C1c.
- d Enter the Workers' Compensation rate that applies to the class code.
- e Enter the estimated Man-hours required to complete the described work for each Workers' Compensation class code.
- f Enter the estimated Payroll required to complete the described work for each Workers' Compensation class code. Use only unburdened payroll and exclude the premium portion of any over-time pay.
- g Calculate the WC Premium by multiplying the Payroll (C1f) by the Rate (C1d) and dividing the result by 100. Repeat this calculation for each WC class code.
- 2 Total all estimated Man-hours for each class code. Be sure to include information from additional pages if used.
- 3 Total all estimated Payroll for each class code. Be sure to include information from additional pages if used.
- 4 Total all Workers' Compensation Premium for each class code. Be sure to include information from additional pages if used.
- 5 Enter Subcontractor's WC Experience Modifier. This information can be located on your Workers' Compensation policy or on your NCCI Bureau Rating Sheet.
- 6 Calculate the Modified Premium by multiplying the WC Premium (C4) by the Experience Modifier (C5).
- 7 Enter your Employer's Liability Insurance Rate. This information can be found in your Workers' Compensation policy.
- 8 Calculate your Employer's Liability Premium by multiplying the Modified Premium (C6) by the Employer's Liability Rate (C7).
- 9 Identify the Modifier's that apply to your Workers' Compensation Premium. This information can be located on your Workers' Compensation Policy.
- 10 Enter the Rate for each identified Modifier. The information can be located on your Workers' Compensation Policy.
- 11 Calculate the Modified Premium Factor Amount by multiplying the Modified Premium (C6) by the Modified Premium Rate (C9) and dividing by 100. Be sure to identify if the Modification factor is an addition or reduction to your premium.
- 12 Total the Modified Premium Amounts by adding the numbers in column C11.
- 13 Calculate the Total Workers' Compensation Premium by adding the Modified Premium (C6) to the Employer's Liability Premium (C8) and Subtracting the Premium Modifications (C12).

D. General Liability & Umbrella/Excess Liability Insurance

- 1 Enter the General Liability Rate. This number can be found on your General Liability Policy.
- 2 Identify the base the General Liability Rate applies to. If the base is other than Payroll or Revenue, enter the amount and the base in the space provided.
- 3 Identify the General Liability Rate factor by marking the box.
- 4 Calculate the General Liability Premium by multiplying the Bases (C3 or B3 or Other) by the Rate (D1) and dividing by the factor (100 or 1,000).
- 5 Enter the Excess/Umbrella Liability Rate. This number can be found on your Excess/Umbrella Liability Policy.
- 6 Identify the base the Excess/Umbrella Liability Rate applies to. If the base is other than Payroll or Revenue, enter the amount and the base in the space provided.
- 7 Identify the Excess/Umbrella Liability Rate factor by marking the box.
- 8 Calculate the Excess/Umbrella Liability Premium by multiplying the Bases (C3 or B3 or Other) by the Rate (D5) and dividing by the factor (100 or 1,000).

E. Builder's Risk/Installation Floater

- 1 Enter the Builder's Risk/Installation Floater Rate and identify the base factor that it applies to (100 or 1,000). Locate this information on your Property policy or Builder's Risk/Installation Floater Policy.
- 2 Identify the base the Builder's Risk/Installation Floater factor by marking the box.
- 3 Calculate the Premium by multiplying the Proposed Subcontract Price (B3) by the Rate (E1) and dividing it by the factor (E2).

F. Other Insurance Premiums

- 1 For each of the Insurance Lines of Coverage identified below, identify the Rate, Base and Factor. Calculate the Premium by multiplying the Base x Rate + Factor. Total the Other Insurance Premiums in the space provided and carry that amount to the front page.

G. Totals

- 1 Calculate the Total Insurance Premium by adding Workers' Compensation (C13), General Liability (D4), Excess/Umbrella Liability (D8), Builder's Risk/Installation Floater (E3), and Other Insurance Premiums (F1).
- 2 Identify the Overhead & Profit Percentage that was applied to this Project during the tabulation of the Proposed Subcontract Price.
- 3 Calculate the Overhead & Profit Amount by multiplying the Total Insurance Costs (G1) by the Overhead & Profit Percentage (G2).
- 4 Calculate the Total Insurance Cost by adding the Overhead & Profit Amount (G3) with the Total Insurance Premium (G1).
- 5 Calculate Subcontractor's Initial Insurance Cost Rate by Dividing the Total Insurance Cost (G4) by the Estimated Payroll (C3) and multiplying by 100.

H. Signature Block: This form must be signed by a representative of your company with the authority to Verify the information is correct.
(i) Please provide copies of the following documents to support your Insurance cost calculations:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Schedule of Values | <input checked="" type="checkbox"/> General Liability declaration and rate pages |
| <input checked="" type="checkbox"/> Workers' Compensation declaration and rate pages | <input checked="" type="checkbox"/> Umbrella/Excess Liability declaration and rate pages |
| <input checked="" type="checkbox"/> Experience Modification worksheet | <input checked="" type="checkbox"/> 5 years actual loss experience for each line of coverage in which Subcontractor retains more the \$5,000. |

Tab I

#2

ATTACHMENT I
OCIP and Insurance Manual

To Be Developed

Tab J

#2

ATTACHMENT J
Contingent Assignment Form

CONTINGENT ASSIGNMENT OF SUBCONTRACT

As consideration for the Wayne County Building Authority's ("Owner") approval of a subcontract agreement between Construction Manager at Risk ("CMAR") and Subcontractor for the Wayne County Consolidated Jail Facility Project ("Project"), the CMAR and the Subcontractor assign their subcontract agreement for the Project to the Owner, effective upon the Owner's execution of this document and termination of the CMAR.

Delivery of this fully executed document shall serve as notice to the Subcontractor that the contingency of the assignment has been satisfied. From that point forward, Subcontractor shall perform its subcontract agreement for the Project at the direction of and for the benefit of the Owner.

The Subcontractor agrees the Owner has no duty to cure any default of CMAR, and Subcontractor's remedy for non-payment or other default remains with the CMAR and its payment bond. Thus, the Subcontractor shall completely perform all obligations of its subcontract agreement and shall do so under the Owner's construction schedule.

SUBCONTRACTOR

CONSTRUCTION MANAGER AT RISK

Company Name:

Company Name:

By:

By:

Its:

Its:

Date:

Date:

WAYNE COUNTY BUILDING AUTHORITY

By:

Its:

Date:

Tab K

#2

ATTACHMENT K
PROJECT ENTRY AGREEMENT
(to be developed)