



PROJECT MANUAL

and

REQUEST FOR BIDS

for

Mill & Overlay Paving

at

MnDOT MORRIS Maintenance Facility

51 Minnesota Drive
Morris, Minnesota 56267

STATE PROJECT NUMBER

Project ID: TB90820
FY PUMA: 25-154128

CONTRACTING AGENCY:

State of Minnesota
Department of Transportation
Building Services Section
MS 715 Transportation Building
395 John Ireland Boulevard
St Paul Minnesota 55155

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SECTION 00 1114 – SOLICITATION ADVERTISEMENT INFORMATION

PROJECT ID: TB90820
FY PUMA: 25-154128

RESPONSES FOR: 2025 Site Paving Reconstruction
MnDOT District 4 Morris Maintenance Facility
51 Minnesota Drive
Morris, MN, 56267
Stevens County

All responses to this solicitation must be submitted and received in the QuestCDN Plan Room no later than 2:00 PM (CDT) on May 8, 2025. **Bids will only be received and accepted via the online electronic bid service through QuestCDN.com.**

Interested Parties can download the bid documents at [QuestCDN Plan Room](#) and click the online bidding button at the top of the advertisement to access the electronic bid qualifications and bid worksheet. **Fax, e-mail, and printed responses will not be accepted or considered.**

Responses received after end date and time will not be considered, even if errors or delays were caused by issues outside of responders' control. All costs incurred in responding to this solicitation will be borne by the responder.

Plans and Specifications may be viewed, without charge, on the Office of State Procurement website <https://mn.gov/admin/osp/vendors/solicitations-and-contract-opportunities/construction-virtual-plan-room/> then click on "Construction Virtual Plan Room." Plans and specifications can be downloaded per project for a non-refundable charge of \$6.00. The 'Download Delivery Fee Selection' is charged to each plan holder once the download of bid documents is initiated. The 'On-line Bidding Fee Selection' 'Bidder Pays (min. \$25.00)' is an additional charge to bidders who submit an online bid at the time of bid close.

Plan Holders will be notified via email as addenda are issued. Parties that download the plans and specifications and need to have them printed elsewhere are solely responsible for those printing costs. Paper copies of plans and specifications will not be distributed by the Owner or its agent(s).

If you need assistance, please contact QuestCDN Customer Support at (952) 233-1632 or info@questcdn.com

This project has a 0% (Gender / Race Neutral) Targeted Group (TG), Economically Disadvantaged (ED), and Veteran-Owned (VO) Small Business (TG/ED/VO) subcontracting goals established.

1.01 PRE-BID MEETING INFORMATION:

A. PRE-BID MEETING

Date: April 30, 2025
Time: 11:00 AM CDT
Location: Morris MnDOT Maintenance Facility
51 Minnesota Drive
Morris, MN 56267

Pre-Bid Meeting will be convened in-person.

The in-person Pre-Bid Meeting format and site visitation will adhere to current health safety guidance and policies provided by the Minnesota Department of Health (MDH) and Centers for Disease Control and Prevention (CDC) in an effort to reduce the spread of contagious viruses.

Prospective attendees exhibiting any cold or flu-like symptoms are asked not to attend in-person meetings and site visitations. Responders are responsible for sending attendees who meet the requirements in effect at the time of the Pre-Bid Meeting.

Attendees shall check in at the current site registration office, if applicable, and obtain appropriate identification for approved premise presence/observations. No independent, unescorted observations of the premises are allowed. This scheduled meeting time will be the only observation access to the premises provided during the bidding period.

B. MEETING IS MANDATORY

1. Prime Contractor Responders must attend.
2. Responses received from Prime Contractors that did not attend the mandatory pre-bid meeting will be rejected.

1.02 DRAWINGS AND PROJECT MANUAL

- A. Drawings and Project Manual were prepared by Minnesota Department of Transportation, Building Services Section, MS-715 Transportation Building, 395 John Ireland Blvd., St. Paul, MN 55155.
- B. Authorized Contact: Rick Bolin
E-mail: richard.bolin@state.mn.us
Phone: 651-802-8089

All questions must be submitted no later than three (3) business days prior to receipt of bids. The State is not obligated to answer questions submitted after the question due date and time.

Only authorized personnel listed in this section above are authorized to discuss this solicitation with responders. Contact regarding this solicitation with any personnel not listed above could result in disqualification. This provision is not intended to prevent responders from seeking guidance from state procurement assistance programs regarding general procurement questions.

Note: Paper copies of plans and specifications will not be distributed by the Owner or its agent(s). Please contact QuestCDN Customer Support at (952) 233-1632 or info@questcdn.com for assistance in downloading and working with this digital project information.

1.03 SUMMARY OF WORK (see also Section 01 1000 for additional information)

- A. The work will be done under one prime contract that includes:
1. Civil and all associated general construction.
- B. Contractor shall be Co-Permittee on the NPDES Permit required for this Project.
- C. The following summary is a general guide to the scope of work. It should not be construed as a detailed list of work included in the contract.
1. Existing site bituminous pavement removal and reconstruction.
 2. New concrete drainage flume construction within existing site bituminous pavement area.
- D. Substantial Completion of the work shall be achieved on or before **September 26, 2025**.

END OF SECTION 00 0114

SECTION 00 2123 – INSTRUCTIONS TO RESPONDERS

1.01 DEFINITIONS

The following definitions apply. For additional definitions refer to the AIA A201 General Conditions of the Contract for Construction.

- A. **Agency:** Any state officer, employee, board, commission, authority, department, entity, or organization of the executive branch of state government. [Minn. Stat. § 16C.02, subd.2]
- B. **AMS:** Acquisition Management Specialist is the person delegated the authority from the Commissioner of Administration to manage the procurement process, award contracts, approve supplements and provides oversight for the life of the contract.
- C. **Architect/Engineer:** The Architect, Engineer, Designer, or other person or entity designated by the Owner to perform the Architect's role required by the Contract Documents. [AIA Document A201 Article 4.1.1]
- D. **Award:** A commissioner's written acceptance of a bid or proposal to provide goods, services, or utilities. [Minn. Stat. § 16C.02, subd.3]
- E. **Best Value; construction:** For purposes of construction, building, alteration, improvement, or repair services, "best value" describes the result determined by a procurement method that considers price and performance criteria [Minn. Stat. § 16C.28, subd.16]
- F. **Construction Contract:** A contract or subcontract of any tier for work on a project. [Minn. Stat. § 16C.285, subd. 1(b)]
- G. **Contract:** Any written instrument or electronic document containing the elements of offer, acceptance, and consideration to which an agency is a party, including an amendment to or extension of a contract. [Minn. Stat. § 16C.02, subd.6]
- H. **Contracting Agency:** The agency which solicits and receives responses, awards and administers the contract.
- I. **Contracting Authority:** A state agency that enters into a construction contract or authorizes or directs entering into a construction contract. [Minn. Stat. § 16C.285, subd. 1(d)]
- J. **Contract Documents:** The Contract Documents (hereinafter Contract, Contract Documents or Agreement) consist of the Agreement between the Owner and Contractor, the Payment and Performance Bond, the Corporate Acknowledgement or Individual and Co partnership Acknowledgement, or Limited Liability Acknowledgement, the General, Supplementary and Special Conditions of the Contract, drawings, specifications (project manual), bidding documents, addenda, other documents listed in the Agreement, and modifications issued and duly authorized after execution of the agreements. [AIA Document A201 Article 1.1.1]
- K. **Contractor:** A business that is engaged in construction such as general, mechanical, or electrical contracting. [Minn. R. 1230.0150, subp. 5]
Contractor: A prime contractor or subcontractor or motor carrier and does not include a design professional or a material supplier. A "design professional" is a business or natural person retained to perform services on the project for which licensure is required by section 326.02. A "material supplier" is a business or natural person that supplies materials, equipment, or supplies to a subcontractor or contractor on a project, including performing delivery or unloading services in connection with the supply of materials, equipment, or supplies; provided, however, that a material supplier does not include a natural person or business that delivers mineral aggregate such as sand, gravel, or stone that is incorporated into the work under the contract by depositing the material substantially in place, directly or through spreaders, from the transporting vehicle. [Laws of Minnesota 2015, Chapter 64, Section 1 (Minn. Stat. § 16C.285, subd. 1(c))]
- L. **Design-Build Contract:** A contract between the commissioner and a design-builder to furnish the architectural, engineering, and related design services as well as the labor, materials, supplies, equipment, and construction services for a project. [Minn. Stat. § 16C.32, subd.1 (9)]

- M. **Encumbrance:** The commitment of a portion or all of an allotment in order to meet an obligation that is expected to be incurred to pay for goods or services received by the state or to pay a grant. [Minn. Stat. § 16A.011, subd.11]
- N. **Fiscal year:** (State) The period beginning at midnight between June 30 and July 1 and ending 12 months later. [Minn. Stat. § 16A.011, subd.14]
- O. **Managing Agency:** The agency responsible for project management.
- P. **Motor Carrier:** A business or natural person providing for-hire transportation of materials, equipment, or supplies for a project. [Laws of Minnesota 2015, Chapter 64, Section 1 (Minn. Stat. § 16C.285, subd. 1(e))]
- Q. **Paying Agency:** The agency responsible for issuing payments.
- R. **Plan Holder:** Parties that have downloaded the Drawings and Specifications.
- S. **Prime contractor:** A vendor that submits a bid or proposal or otherwise responds to a solicitation document of a contracting authority for work on a project or is awarded a construction contract by a contracting authority for work on a project. [Minn. Stat. § 16C.285 subd. 1(f)]
- T. **Principle:** An owner holding at least a 25 percent ownership interest in a business. [Minn. Stat. § 16C.285 subd. 1(g)]
- U. **Project:** Means building, erection, construction, alteration, remodeling, demolition, or repair of buildings, real property, highways, roads, bridges, or other construction work performed pursuant to a construction contract. [Minn. Stat. § 16C.285 subd. 1(h)]
- V. **Related entity:** 1) firm, partnership, corporation, joint venture, or other legal entity substantially under the control of a contractor or vendor; 2) a predecessor corporation or other legal entity having one or more of the same principals as the contractor or vendor; 3) a subsidiary of a contractor or vendor; 4) one or more principals of a contractor or vendor; and 5) a person, firm, partnership corporation, joint venture, or other legal entity that substantially controls a contractor or vendor. [Minn. Stat. § 16C.285 subd. 1(i)]
- W. **Response:** An offer extended by a vendor in response to a solicitation. Interchangeable with Bid.
- X. **Responder:** A person who provides an offer in response to a solicitation. [Minn. R. 1230.0150, subp. 19a]
- Y. **Responsible contractor:** A contractor that conforms to the responsibility requirements in the solicitation document for its portion of the work on the project and verifies that it meets the minimum criteria as defined in Minn. Stat. § 16C.285 subd. 3 (1)-(7). [Minn. Stat. § 16C.285 subd. 3]
- Z. **Solicitation:** The process used to communicate procurement requirements and to request responses from interested vendors. A solicitation may be, but is not limited to, a request for bid and request for proposal. [Minn. Stat. § 16C.02, subd. 19]
- AA. **Solicitation document:** An invitation to bid, bid specifications, request for proposals, request for qualifications, or other solicitation of contractors for purposes of a construction contract. [Minn. Stat. § 16C.285 subd. 1]
- BB. **Solicitation-Formal:** A solicitation which requires a sealed response. [Minn. Stat. § 16C.02, subd. 7]
- CC. **Subcontractor:** A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a subcontractor or an authorized representative of the subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor. [AIA Document A201 Article 5.1.1]
- Subcontractor:** A vendor that seeks to enter into a subcontract or enters into a subcontract for work on a project. [Minn. Stat. § 16C.285 subd. 1(i)]

- DD. **Vendor:** A business, including a construction contractor or a natural person, and includes both if the natural person is engaged in a business. [Minn. Stat. § 16C.02, subd. 21]

1.02 TARGETED GROUP, ECONOMICALLY DISADVANTAGED BUSINESS, VETERAN-OWNED AND INDIVIDUAL PREFERENCE

- A. Unless a greater preference is applicable and allowed by law, in accordance with Minn. Stat. § 16C.16, businesses that are eligible and certified by the State as targeted group (TG) businesses, economically disadvantaged (ED) businesses, and veteran-owned businesses will receive a 12% (twelve-percent) preference. For Bids, the preference applies only to the first \$2,000,000.

For TG/ED/VO certification and eligibility information visit [the Office of Equity in Procurement website at https://mn.gov/admin/business/vendor-info/oep/](https://mn.gov/admin/business/vendor-info/oep/) or call the Division's Helpline at 651.296.2600.

1.03 EXAMINATION OF SITE AND DOCUMENTS

- A. Responders shall examine all documents, (specifications, drawings, and instruction), shall visit the site and record their own investigations, and shall inform themselves of all conditions under which the work is to be performed at the site of the work, the structure of the ground, the obstacles which may be encountered, all of the conditions of the documents, including, but not limited to, superintendence of the work, requirements of temporary heat, time of completion, furnishing a list of subcontractors, and all other relevant matters which may affect the work or the responses.
- B. The Responder shall base the response on materials complying with the Drawings and Specifications included in this solicitation. If a Responder discovers any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in the solicitation, please immediately notify the contact person detailed above in writing of such error and request modification or clarification of the document. Qualified and/or alternate responses will not be considered. (See 1.10)

1.04 ELECTRONIC SIGNATURES

- A. The Commissioner of Administration will accept e-signatures that have been authenticated by a third-party digital software, such as DocuSign and Adobe Sign, when it includes the date and time of the signature, an authentication code, and is attributable to the person intending to sign the document. Handwritten signatures on faxed or scanned documents are e-signatures and are acceptable for all purposes.

Remote online notarization must be performed by a remote online notary public currently registered with the Minnesota Secretary of State and pursuant to the procedures set forth in Minnesota Statutes, section 358.645, subdivision 7.

1.05 SOLICITATION SECURITY REQUIREMENTS

- A. Each Prime Response which totals more than \$50,000.00 must be accompanied by a surety bond of a surety company duly authorized to do business in the State of Minnesota; in an amount equal to five percent (5%) of the total amount of the response, which is submitted as a solicitation security conditioned upon the Responder entering into a contract with the State of Minnesota in accordance with the terms of the solicitation. Responders must upload a copy of their surety bond as prompted in the QuestCDN Virtual Plan Room. The State reserves the right to require the Contractor to provide the original surety bond to the State. If such a request is made, the Contractor must submit the original surety bond within seven (7) calendar days upon receipt of the request. If the original surety bond is not received within seven (7) calendar days of receipt of the request, the State may take action including rejection of the response or cancellation of the contract for cause.
- B. Refer to Section 00 4314 "Solicitation Bond Form" for the form of the Bond to be provided.

1.06 INTERPRETATIONS AND CHANGES BY ADDENDA

- A. If any Plan Holder is in doubt as to the meaning of any part of the Drawings and Specifications, submit a written request to the Architect for an interpretation of that part. Any interpretation or change will be made only by addendum numbered and dated, made available on the QuestCDN Plan Room. The State or Architect will not be responsible for any other explanations or interpretations of the documents.
- B. Any information obtained by, or provided to, a Responder other than by formal addenda to the solicitation shall not constitute a change to the solicitation.
- C. If this solicitation is amended, all terms and conditions which are not modified remain unchanged.
- D. Responders are responsible for checking all addenda to verify that they are submitting the latest version of the Response Form that has been issued for this solicitation. Responses received on forms that are not the latest version of the form may be rejected.
- E. Responders must acknowledge receipt of all addenda. Responses which fail to acknowledge any addendum which affects price will be rejected.
- F. Requests for Approvals to Bid
 - 1. Approval to Bid does not relieve the Contractor from full compliance with the Contract Documents.
 - 2. Submit requests for Approval to Bid no later than five (5) days prior to receipt of bids.
 - 3. Manufacturers Restricted Lists: Where Specifications include a list of manufacturers' names, submit a Product that is representative of Manufacturer's capability to comply with requirements.
 - a. Manufacturer may be approved to bid by name.
 - 4. Products Restricted Lists: Where Specifications include a list of names of both manufacturers and products submit a Product that complies with requirements.
 - a. Product may be approved to bid by Manufacturer name and model number.
 - 5. Conditions: MnDOT Project Manager will consider Contractor's request for Approval to Bid when the following conditions are satisfied:
 - a. Product requested for Approval to Bid is consistent with the Contract Documents and will produce indicated results.
 - b. Product requested for Approval to Bid is compatible with other portions of the Work.
 - c. Product requested for Approval to Bid provides specified warranty.
 - 6. Approval to Bid Requests: Submit electronic copy of each request for consideration. Identify product or fabrication or installation method proposed. Include Specification Section number and title and Drawing numbers and titles.
 - a. Submit Approval to Bid Request Form: Attached Document 00 2123
 - b. Documentation: Show compliance with requirements for Approvals to Bid and the following, as applicable.
 - i. Detailed comparison of significant qualities of proposed Product with those of the Work specified. Include annotated copy of applicable Specification Section. Indicate deviations, if any, from the Work specified.
 - ii. Product Data, including drawings and descriptions of products and fabrication and installation procedures.
 - iii. Material test reports from a qualified testing agency indicating and interpreting test results for compliance with requirements indicated.
 - 7. MnDOT Project Manager's Action:
 - a. MnDOT Project Manager may request additional information or documentation for evaluation of a Request for Product Approval to Bid.
 - b. MnDOT Project Manager response will be issued by Addendum only.

DOCUMENT 00 2123 – PRODUCT APPROVAL TO BID REQUEST FORM

Submit To: Minnesota Department of Transportation, Building Services Section MS 715
395 John Ireland Blvd. St. Paul MN 55155

ATTN: Rick Bolin

Email: richard.bolin@state.mn.us

| SECTION # | PARA # | ITEM | PROPOSED MANUFACTURER & PRODUCT |
|-----------|--------|------|---------------------------------|
|-----------|--------|------|---------------------------------|

ATTACH COMPLETE TECHNICAL DATA, LITERATURE, AND SAMPLE IF APPLICABLE.

Comments:

A. Does proposed PRODUCT fail in any respect to satisfy the requirements specified?

[Y] [N]

B. Does PRODUCT affect dimensions shown on drawings?

[Y] [N]

C. Does PRODUCT affect other trades?

[Y] [N]

D. Does PRODUCT warranty differ from specified?

[Y] [N]

If you answered "Yes" to any of the items above, attach a complete explanation on your company letterhead. Explain all differences between the proposed PRODUCT and the specified product requirements and summarize your experience with the proposed PRODUCT in this application.

Attach manufacturer's product information adequate to facilitate evaluation of the proposed PRODUCT. Highlight or circle relevant information or cross out information that does not apply to this project. Identify differences between proposed PRODUCT and specified products and requirements.

Approval to Bid does not relieve the Contractor from full compliance with the Contract Documents.

The undersigned states that the function, appearance, and quality of the PRODUCT are equivalent or superior to the Specified Item and requirements. The undersigned agrees that if necessary to make this product perform as required, in the sole opinion of the MnDOT Project Manager, all additional costs shall be paid by the Contractor.

Requestor:

Submitted by: _____

Position: _____

Company: _____

Address: _____

Date: _____

Telephone: _____

Signature: _____

MnDOT Project Manager:

APPROVED TO BID: _____

NOT APPROVED TO BID: _____

Received Too Late: _____

By: _____

Date: _____

Remarks: _____

END OF FORM

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1.07 PREPARATION OF RESPONSE

- A. The Responder shall submit their response on the furnished forms and all the forms must be filled in correctly and signed. Where the solicitation requires a response on all items, failure to do so will cause the response to be rejected.
- B. A response containing an alteration or erasure of any price contained in the bid which is used in determining the lowest responsible bid must be rejected unless the alteration or erasure is corrected in a manner that is clear and authenticated by an authorized representative of the responder.

1.08 RESPONSIBLE CONTRACTOR REQUIREMENT

- A. The Responsible Contractor law set forth in Minn. Stat. § 16C.285 requires a Prime Contractor to certify compliance with the law when their solicitation response exceeds \$50,000.00. The Prime Contractor verifies compliance with the law at the time of responding to a solicitation by checking “Yes” to all three items within the Responsible Contractor subsection of the Prime Contractor Response Form found at Section 00 41 73 of the solicitation documents.

- 1. Verifying compliance with the Responsible Contractor law includes certifying that the Prime Contractor's company has filed a certificate of authority to transact business in Minnesota with the secretary of state if a foreign corporation or cooperative.

Contact the Office of the Minnesota Secretary of State with questions about satisfying this requirement before submitting a solicitation response.

- B. The Prime Contractor shall submit “Attachment A First-Tier Subcontractor List” naming all First-Tier Subcontractors that it intends to retain for work on the project prior to execution of the contract. [Minn. Stat. § 16C.285, subd. 5]
- C. If a prime contractor or any subcontractor retains additional subcontractors on the project after submitting its verification of compliance, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit “Attachment A-1 Additional Subcontractors List” confirming compliance with subdivision 3, clause (7), within 14 days of retaining the additional subcontractors.
- D. A Prime Contractor shall submit to the contracting authority upon request copies of the signed verifications of compliance from all subcontractors of any tier pursuant to subdivision 3, clause (7). A Prime Contractor and subcontractors shall not be responsible for the false statements of any subcontractor with which they do not have a direct contractual relationship. A Prime Contractor and subcontractors shall be responsible for false statements by their first-tier subcontractors with which they have a direct contractual relationship only if they accept the verification of compliance with actual knowledge that it contains a false statement.

1.09 LAWS AND REGULATIONS

- A. The Responder shall comply with all applicable municipal, county, state, and federal laws, ordinances, and regulations, and shall obtain and pay for all licenses and permits (and special use permits, if applicable) as required.

1.10 QUALIFIED RESPONSES

- A. The Responder shall not stipulate in the response any condition not contained in the specifications and other documents submitted for the solicitation.

1.11 SOLICITATION DISPUTE RESOLUTION PROCEDURES

- A. Any issue a Responder has with the solicitation document, which includes, but is not limited to, the terms, conditions, and specifications, must be submitted in writing to the AMS prior to the solicitation opening due date and time.

- B. Any issue a Responder has with the official bid tabulation must be submitted in writing to the AMS within five working days from the time the bid tabulation is made public. The State will respond to any protest received that follows the above procedure.

1.12 WITHDRAWAL OF RESPONSE

- A. Before the time for responding has ended, a responder may withdraw its response or any part of a bid from the QuestCDN Virtual Plan Room. After the time for responding has ended, a responder may withdraw a response or any part of a bid only upon showing that an obvious error exists in the response. The showing and request for withdrawal must be made in writing to the contact person for this solicitation within a reasonable time and prior to the State's detrimental reliance on the response.

1.13 SOLICITATION RESULTS

- A. Solicitation (bid) results can be obtained at the Office of State Procurement website <https://mn.gov/admin/osp/vendors/solicitations-and-contract-opportunities/construction-virtual-plan-room/> and click on "Construction Virtual Plan Room," then click on "View Bid Results."

1.14 CONSIDERATION OF RESPONSES

- A. After the Prime responses have been opened, the apparent low Prime response and possible low Prime responses with alternates will be checked for responsiveness. All other prime responses will not be checked for responsiveness until such time as they may become apparent low.
- B. The State reserves the right to accept or reject any or all responses, or parts of responses, and to waive informalities or minor irregularities therein.
- C. Qualifications required by Attachment C "Prime Contractor Response – Qualification Form"
 - 1. Responder shall answer all questions and provide all information requested as a condition of acceptance of the Response by the Contracting Agency for consideration. Failure to meet this requirement may result in the rejection of the entire solicitation response as non-responsive.
 - 2. Experience Qualifications of the Responder and of Project Personnel proposed must fall within the requirements specified.
 - 3. Responder shall submit and provide these personnel as required by A201 3.3.4 and 3.9 for the Work of this Contract.
- D. (not used)
- E. (not used)
- F. (not used)

1.15 STATE EXCISE AND USE TAX

- A. The Responder is to include in the response price all applicable State or Federal sales, excise or use tax on all materials, supplies and equipment that are to be utilized on this project.

1.16 AWARD

- A. The award will be made to the lowest responsible Prime Contractor who conforms to the language of the specifications, terms of delivery, and any other conditions imposed herein.
- B. Low-tied responses will be referred to the director of the Office of State Procurement. The director or delegate may enter into negotiation with the low-tied responders when the director deems such action to be in the best interest of the State.

1.17 CONTRACT

- A. The successful Responder, if awarded a contract, shall sign a Contract with the State, and furnish a payment bond, performance bond and insurance in conformance with the solicitation and specifications. See 1.04, Electronic Signatures. Responder shall execute and deliver the contractual document in correct form within seven (7) calendar days after receipt of the contract documents. No such contract shall be in force and effect until it is executed by all parties, the full amount of the contract liability of the State has been encumbered by the State, and payment bond and performance bond have been approved.
- B. The State shall not permit the Contractor on the job site for any reason until the Contractor has provided a payment bond, performance bond, and certificates of insurance, all of which are subject to the State's review and approval. This Contract expressly excludes any payments or any on-site work until all bond and insurance requirements have been met.
- C. If the Contract, payment bond, performance bond, and insurance submitted by the Contractor are approved by the Contracting Agency a Notice to Proceed will be sent to the Contractor and all requirements of the contract (including site work) may commence.
- D. The State reserves the right to terminate the contract without obligation to the Contractor if all Payment Bond, Performance Bond, and insurance requirements are not met.
- E. The Contractor shall, within 10 days of signing the contract, submit in writing to the Architect a complete list of all items of work that they propose to subcontract and the names of the subcontractors to whom they propose to subcontract such work. The subcontractors named shall be of recognized standing with a record of satisfactory performance. The Contractor shall not employ any subcontractor or use any material to which the Architect may object as incompetent, unfit, or where there is reason to assume the work will not be accomplished in accordance with the Contract Documents. Failure of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.
- F. If the Contract, payment bond, and performance bond that are submitted by the Contractor are approved by the Contracting Agency, but the insurance is not yet approved, a Provisional Notice to Proceed may be sent to the Contractor and all requirements of the Contract that do not require the Contractor to be on the job site may proceed. When the insurance has been approved by the Contracting Agency, a Final Notice to Proceed will be sent to the Contractor and only at that time can the Contractor come on the job site.

1.18 SUB-CONTRACTUAL RELATIONS

- A. The Contractor shall make available to each proposed Subcontractor, prior to execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors. The Contractor and subcontractors shall be in compliance with Article 5.3 of the AIA A201-2017 edition as modified by the State.

1.19 ASSURANCE OF COMPLETION (PAYMENT AND PERFORMANCE BOND)

- A. The Payment and Performance Bonds, each equal to 100 percent of the total contract value, shall be in compliance with the AIA A201-2017 edition as modified by the State, Article 11.4 Payment and Performance Bond.

1.20 LIMIT OF TIME TO BRING ACTION (PAYMENT AND PERFORMANCE BOND)

- A. Limit of time to bring action shall be in compliance with Minn. Stat. § 574.31, Subd. 1 Claims on performance bonds and Subd. 2 Claims on payment bonds and in compliance with the AIA A201-2017 edition as modified by the State, Article 5.1.3.

1.21 CERTIFICATION REGARDING FEDERAL DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

- A. A contract resulting from this solicitation may be a covered transaction for purposes of federal debarment and suspension regulations. By submission of its response, the responder certifies that neither it, nor its principals or subcontractors, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. The responder further certifies that it will include this provision in any subcontracts resulting from this solicitation. If the responder knowingly renders an erroneous certification, in addition to remedies available to the Minnesota Department of Administration, the Federal Government may pursue available remedies, including but not limited to suspension or debarment.

1.22 WORKFORCE COMPLIANCE.

- A. If the solicitation response is in excess of \$100,000, the State of Minnesota – Workforce Certificate Information form is required. Vendors are cautioned to read closely the section listed elsewhere in this specification titled, “Notice to Prime Contractors, Workforce Certificate of Compliance”, Section 00 7335.

1.23 PROHIBITED SUBSTANCES

- A. By Contractor shall not provide any goods containing triclosan, coal tar, or polybrominated diphenyl ether to the State. [Amara's Law \(Minn. Stat. § 116.943\)](#) will take effect in Minnesota January 1, 2025, and applies all products sold or distributed under the contract. The law prohibits the sale or distribution of some products with intentionally added PFAS within Minnesota.

1.24 CERTIFICATION OF NONDISCRIMINATION (IN ACCORDANCE WITH MINN. STAT. § 16C.053)

- A. The following term applies to any contract for which the value, including all extensions, is \$50,000 or more: Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

1.25 EQUAL PAY CERTIFICATION

- A. If the Response to this solicitation is in excess of \$500,000, the Responder must obtain an Equal Pay Certificate from the Minnesota Department of Human Rights (MDHR) or claim an exemption prior to contract execution. A responder is exempt if it has not employed 40 or more full-time employees on any single working day during the previous 12 months in Minnesota or the state where it has its primary place of business. Please contact MDHR with questions at: 651-539-1095 (metro), 1-800-657-3704 (toll free), 711 or 1-800-627-3529 (MN Relay) or at compliance.MDHR@state.mn.us.

1.26 PUBLICITY

- A. The Contractor shall make no representations of the State's opinion or position as to the quality or effectiveness of the products and/or services that are the subject of this Contract without the prior written consent of the contracting authority. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, and similar public notices.

1.27 ORGANIZATIONAL CONFLICTS OF INTEREST

- A. The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:
- a Contractor is unable or potentially unable to render impartial assistance or advice to the State.
 - the Contractor's objectivity in performing the work is or might be otherwise impaired; or
 - the Contractor has an unfair competitive advantage.

The Contractor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Department of Administration's Office of State Procurement that shall include a description of the action the Contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the State may, at its discretion, cancel the Contract. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the Contract and did not disclose the conflict to the AMS, the State may terminate the Contract for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Contract," "Contractor," and "AMS" modified appropriately to preserve the State's rights.

1.28 COMPLIANCE WITH TAX LAW REQUIREMENTS

- A. The State cannot make final payment to the Contractor until the Contractor demonstrates that it and all its subcontractors have complied with the Income Tax withholding requirements of Minnesota Statutes, section 290.92 for wages paid for work performed under the contract. To establish compliance, the Contractor must submit a "Contractor Affidavit" either online or in paper form (IC134) to the Minnesota Department of Revenue. The Contractor will receive written certification of compliance when the Department of Revenue determines that all withholding tax returns have been filed and all withholding taxes attributable to the work performed on the contract have been paid. The Contractor must then provide this written certification to the Architect/Engineer to receive final payment.
- B. Every subcontractor working on the Project must submit an approved "Contractor Affidavit" from the Minnesota Department of Revenue to the Contractor before the Contractor can file its own Contractor Affidavit. **The Contractor is strongly encouraged to obtain the certification from each Contractor immediately following the Subcontractor's completion of work on the project. Delays in completing the forms until after the project is complete may result in significant additional work for the Contractor in collecting the required forms.**
- C. The Department of Revenue, in association with the Department of Employment and Economic Development, offers a free seminar to help contractors understand tax law requirements. The Department strongly urges the Contractor and all subcontractors to attend the "Employment Taxes & Employer Responsibilities Seminar" or similarly offered classes. You can find a schedule and more information on the Department's website at: [Contractor Affidavit Requirements | Minnesota Department of Revenue \(state.mn.us\)](https://www.revenue.state.mn.us/contractor-affidavit-requirements)

Complying with this requirement is considered part of the Work under this Contract. Contractor delay in complying with this requirement may cause the State to delay final payment and Contract Acceptance. The State may also report non-compliance to the Department of Revenue, which may result in enforcement action by the Department of Revenue.

END OF SECTION 00 2123

SECTION 00 2126 – SUPPLEMENTARY INSTRUCTIONS TO RESPONDERS

1.01 BUILDING CONSTRUCTION CONTRACTOR REGISTRATION

- A. Per Minn. Stat. §326B.701, unless exempt, any Person, as defined by Minn. Stat. §181.723, subd. 1(a), who performs public or private construction services must register with the Department of Labor and Industry (DLI). Registration is required prior to receiving a contract award. For additional information, and to register, go to www.dli.mn.gov/register or call (651) 284-5074.
 - 1. Building construction contractors, including independent contractors, subcontractors, and business entities providing public or private sector commercial or residential building construction or improvement services must be registered with the Department of Labor and Industry (DLI).
 - 2. The registration requirement does not apply to workers and businesses that are already licensed, registered, or certified with the Department of Labor and Industry (DLI), nor does it apply to employees.
 - 3. General or Prime Contractors will be able to verify that subcontractors are registered on the searchable Department of Labor and Industry Contractor Look-Up web site.
 - 4. The law provides for penalties for failure to register, hiring unregistered contractors, misclassifying employees, and coercing others to form a business entity.

1.02 SPECIAL INSTRUCTIONS, NON-MINNESOTA CONTRACTORS

- A. Minn. Stat. §290.9705 requires public entities to deduct and withhold 8% (eight-percent) of payments made to the contractor if the value of the contract exceeds \$50,000.
- B. Exemptions from this requirement are allowed under specific circumstances that are listed in the “Reason for Exemption” section of the Exemption from Surety Deposits for Non-Minnesota Contractors (SDE) form (attached).
- C. One reason that Revenue allows for an exemption is that the non-Minnesota Contractor will be providing a Payment Bond and Performance Bond to the government contracting agency. Such bonds are required for this Contract. The Contractor must file a separate application for exemption for each project.
- D. In order to formalize this exemption you must, prior to being sent a Notice to Proceed, complete Form SDE (attached), or available at <https://www.revenue.state.mn.us/sites/default/files/2011-11/sde.pdf>, and submit to Minnesota Revenue. If approved, provide the contracting agency with a copy executed by Minnesota Revenue. If your request for exemption is based on the fact that you are providing a Payment Bond and a Performance Bond for this Contract, note in the bonding company information section what State Department the bonds are being sent to (Dept. of Admin., MN Dept. of Transportation, Dept. of Natural Resources, and Dept. of Military Affairs). In this case a copy of the bond to the SDE form is required.
- E. Send these forms for execution to:
 - Minnesota Department of Revenue
 - Mail Station 6501
 - 600 N. Robert Street
 - St. Paul, MN 55146-6501
 - E-mail: contractor.compliance@state.mn.us

END OF SECTION 00 2126



Form SDE, Exemption from Surety Deposits for Non-Minnesota Contractors

Please type or print clearly.

| | | | | |
|--------------------------|-------|----------|-------------------------|---------------|
| Non-Minnesota Contractor | | | Minnesota Tax ID Number | |
| Address | | | Contact Person | |
| City | State | ZIP Code | Daytime Phone | Email Address |

| | | | | |
|--------------------------|--------------------------|---------------------|-------|------------------------------------|
| Name of Contract Owner | | Contact Person | | Daytime Phone |
| Contract Owner's Address | | City | State | ZIP Code |
| Project Number | Project Location Address | City | State | ZIP Code |
| Total Contract Amount | | Contract Start Date | | Projected Contract Completion Date |

I request exemption from surety deposits under Minnesota Statute 290.9705 for this reason (check one box only):

- ☐ I have a bond secured by an insurance company licensed in Minnesota. Attach Form SDB, *Non-Minnesota Contractor's Bond*.
- ☐ I have a cash surety. Bank or other financial institution: _____ Account number: _____
- ☐ I have done construction work in Minnesota during the past three calendar years and have fully complied with Minnesota income, sales and use, corporate franchise, and withholding tax laws during that time.

I hereby certify that I have the legal authority to sign this form on behalf of the Non-Minnesota Contractor, and that the information is correct and complete to the best of my knowledge and belief. I authorize the Minnesota Department of Revenue: 1) to disclose pertinent return information to the Surety Company that issued the bond for this project if needed in order to collect on the bond; and 2) to disclose pertinent return information to the Contract Owner for this project if needed concerning the surety deposit and its withholding.

| | | |
|--------------------------------------|-------|------|
| Non-Minnesota Contractor's Signature | Title | Date |
|--------------------------------------|-------|------|

Email or mail this completed form to:

Email: Contractor.Compliance@state.mn.us

Mail: Minnesota Department of Revenue
Mail Station 6501
600 N. Robert St.
St. Paul, MN 55146-6501

Form SDE Instructions

When to Complete Form SDE

Complete and file Form SDE, Exemption from Surety Deposits for Non-Minnesota Contractors, with the Minnesota Department of Revenue before starting a construction project in Minnesota if all of these apply:

- You are a non-Minnesota construction contractor.
- You have one or more contracts expected to exceed \$50,000 for construction work done in Minnesota.
- You qualify for a surety deposit exemption (see Exemption Requirements).

You must have a Minnesota Tax ID Number to request an exemption. If you do not have a Minnesota Tax ID number:

- Apply online at www.revenue.state.mn.us
- Call the department at 651-282-5225 or 1-800-657-3605.

Surety Deposit Requirement

If a business or government agency hires or contracts with you, they must withhold 8% (.08) from their payments to you as a Minnesota surety deposit if both of these apply:

- The work is being performed in Minnesota
- Total payments on the contract will exceed \$50,000

Note: All payments – including the first \$50,000 – are subject to the 8% withholding.

Exemption Requirements

You may qualify for an exemption from the surety deposit requirements if one of these is true:

- You have done construction work in Minnesota during the past three calendar years and have filed all returns and paid all amounts due, including Minnesota income, withholding, corporate franchise, and sales and use tax.
- You give the department a bond that is secured by an insurance company licensed in Minnesota and is equal to 8% of the contract amount. The bond remains in effect until you satisfy all tax liabilities. You may complete Form SDB, Non-Minnesota Contractor's Bond, to send this bond to the department.
- You give the department a cash surety. A cash surety is evidence of a savings account, deposit, or certificate of deposit in, or issued by, a state bank, national bank, or savings and loan association doing business in Minnesota. You may keep any interest and dividends earned on the principal amount.

If You're Exempt

If you qualify for an exemption, we will send you a Surety Deposit Withholding Waiver. Make a copy for your records and give the original letter to the business or government agency you are working for.

If You're Not Exempt

If you do not qualify for an exemption, the business or government agency you are working for must withhold and remit 8% of each payment to you.

To have the deposits refunded to you, complete Form SDR, Refund of Surety Deposits for Non-Minnesota Contractors. If we determine that you have complied with all applicable Minnesota income, withholding, and sales and use tax laws for the periods covered by the deposit, we will send you a refund plus interest.

Information and Assistance

Additional forms and information, including fact sheets and frequently asked questions, are available on our website. Website: www.revenue.state.mn.us

Email: withholding.tax@state.mn.us

Phone: 651-282 9999 or 1-800-657-3594

This information is available in alternate formats.

Use of Information

The information you enter on this form may be private or nonpublic under state law. We use it to determine if you qualify for a surety deposit exemption under Minn. Stat. § 290.9705. You are not required to provide the information requested; however, we are unable to process the exemption from surety deposits unless the form is complete. We cannot share any such private or nonpublic information without your written consent, authorization by law, or court order.

SECTION 00 4314 – SOLICITATION BOND

Remote online notarization must be performed by a remote online notary public currently registered with the [Minnesota Secretary of State](#) and pursuant to the procedures set forth in Minnesota Statutes, section 358.645, subdivision 7.

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SOLICITATION BOND FORM
STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION

SOLICITATION BOND TO ACCOMPANY CONSTRUCTION AND MAINTENANCE RESPONSES

KNOW ALL MEN BY THESE PRESENTS, that we

_____ as Principal, and

_____ as

Surety, are held and firmly bound unto the State of Minnesota as Obligee, in the sum of **5% of the bid amount** for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, and firmly by these presents.

Dated this ____ day of _____ A. D. 20____.

The condition of this obligation is such that whereas the Principal has submitted the accompanying response for the articles described in:

Mill and Overlay Paving
MnDOT District 4 Morris Maintenance Facility
Project ID: TB90820
FY PUMA: 25-154128

NOW, THEREFORE, if the aforesaid Principal shall be awarded a contract upon said response, and shall within the required number of days after the notice of such award, enter into a contract with the State of Minnesota, and give bond for the faithful performance of the contract as may be required, then this obligation shall be null and void; otherwise the Principal and Surety will pay unto the Obligee the sum of **5% of the bid amount** not as a penalty, but as liquidated damages sustained by the State of Minnesota as a result of such failure.

Principal

Signature

Title

Surety

Attorney-in-fact

INDIVIDUAL AND CO-PARTNERSHIP ACKNOWLEDGMENT

STATE _____

COUNTY _____

On this _____ day of _____, 20__ before me personally appeared

_____ and

_____ to
me known to be the person(s) described in and who executed the foregoing bond, and acknowledged that
he/she/they executed the same as a free act and deed.

(Notary Seal)

(Notary Signature) _____

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT FOR PRINCIPAL

STATE _____

COUNTY _____

On this _____ day of _____, 20__ before me appeared

_____ and

_____, to me personally known, who being by me duly sworn, did
say

that they are respectively _____ and

_____ of _____, a Limited

Liability Company; and that said instrument was executed on behalf of the Limited Liability Company by
authority of its Management Committee; and they acknowledged said instrument to be the free act and
deed of the Limited Liability Company.

(Notary Seal)

(Notary Signature) _____

CORPORATE ACKNOWLEDGMENT FOR PRINCIPAL

STATE _____

COUNTY _____

On this _____ day of _____, 20____ before me appeared

_____ and

_____, to me personally known, who being by me duly sworn, did
say

that they are respectively _____ and

_____ of _____, a Corporation; and that

said instrument was executed on behalf of the Corporation by authority of its Board of Directors; and they

acknowledged said instrument to be the free act and deed of the Corporation.

(Notary Seal)

(Notary Signature) _____

AFFIX HERE ACKNOWLEDGMENT OF CORPORATE SURETY

The form of this bond has been prescribed by the Commissioner of Administration and approved by the Attorney General of Minnesota.

Full Name of Surety Co. _____

Home Office Address _____

City, State and ZIP Code _____

Name of Attorney-in-fact _____

Name of Local Agency _____

Address of Local Agency _____

END OF SECTION 00 4314

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SECTION 00 7200 –

**AIA DOCUMENT A201, 2017 EDITION
GENERAL CONDITIONS OF THE CONTRACT
FOR CONSTRUCTION AS AMENDED BY THE STATE**

- 1.01** The AIA A201 General Conditions of the Contract for Construction, 2017 Edition as modified by the State of Minnesota are hereby made part of these specifications, except as amended by the Supplementary Conditions and Special Conditions.

END OF SECTION 00 7200

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General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

MnDOT Morris Maintenance Facility - Mill & Overlay Paving
610 Highway 9
Morris, MN 56267
Project ID: TB90820, FY PUMA: 25-154128

THE OWNER:

(Name, legal status and address)

State of Minnesota, Department of Transportation
395 John Ireland Boulevard
St. Paul, MN 55155

THE ARCHITECT:

(Name, legal status and address)

MnDOT Building Services Section
395 John Ireland Boulevard, Mailstop 715
St. Paul, MN 55155

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- 12 UNCOVERING AND CORRECTION OF WORK**
- 13 MISCELLANEOUS PROVISIONS**
- 14 TERMINATION OR SUSPENSION OF THE CONTRACT**
- 15 CLAIMS AND DISPUTES**

ADDITIONS AND DELETIONS:

The author of this document may have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™–2017, Guide for Supplementary Conditions.

(Topics and numbers in bold are Section headings.)

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents (hereinafter Contract, Contract Documents or Agreement) consist of the Agreement between the Owner and Contractor, the Payment and Performance Bond, the Corporate Acknowledgment or Individual and Co partnership Acknowledgment, or Limited Liability Acknowledgment, the General, Supplementary and Special Conditions of the Contract, drawings, specifications, bidding documents, addenda, or proposal or portions of addenda relating to bidding or proposal requirements, other documents listed in the Agreement, and Modifications issued after execution of the Contract.

- .1 For purposes of this document, the term "Architect" shall mean "Architect or Engineer of Record."
- .2 For purposes of this document the term "Change Order" shall be defined as "Supplemental Agreement."

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Supplemental Agreement. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

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

§ 1.1.4 The Project

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 Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.7.1. The Project Manual is a volume assembled for the Work which includes bidding requirements, sample forms, General Conditions of the Contract and Specifications or other Instruments of Service.

§ 1.1.8 Initial Decision Maker – Not Used.

§ 1.1.9 Bidding Documents

The Bidding Documents are the advertisement for bids, the instructions to bidders, sample forms, the Contractor's bid and addenda relating to any of these.

§ 1.1.10 Addendum or Addenda

The addendum or addenda are any written changes, bulletins, revisions or clarifications of the Contract Documents which have been duly issued by the Architect to prospective bidders prior to the time of the Owner receiving bid proposals.

§ 1.1.11 Modification

A Modification is (1) a Change Order (Supplemental Agreement), (2) a Construction Change Directive, (3) or a written order for a change in the work issued by the Architect and approved by Owner, pursuant to Article 7 or a written order for a change in the work or contract issued by the Owner pursuant to Article 7. All changes to the contract shall be documented by Change Order (Supplemental Agreement) signed by Owner and Contractor. No payment for a change will be made until the Change Order (Supplemental Agreement) is fully executed (signed by Contractor, Architect and Owner).

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. In the event of an inconsistency between the drawings and specifications, or within either, where the inconsistency is not clarified by addendum, the better quality or greater quantity of work shall be required as determined by the Architect. Addenda and modifications of the Contract Documents, as defined in Section 1.1.10 and 1.1.11 shall take precedence over the original Contract Documents.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity, the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 Any and all documents produced for the State become the property of the State and the State therefore maintains any copyright on these documents. The Contract Documents, in whole or in part, and copies thereof, are to be used by the Contractor only in respect to this project and shall not be used by the Contractor for any other purpose.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice. Normal communication between parties may be by US Mail, email or fax. An invoice or application for payment are not a notice of claim for the purposes of Section 15.1.3 nor for purposes of Minnesota Statutes Section 16A.124.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon written protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to written protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 1.9 Project Management Software

The Owner may, at its sole option, direct the Architect, Construction Manager, Contractor (as applicable), and/or other Project participants to utilize the internet-based Project Management Software selected by the Owner. The functionality of this software may include, but is not limited to, the processing of the Plan Reviews, Purchase Orders, Change Orders, Payment Applications, Requests for Information, and Document and Schedule Management related to the Project. If the Owner chooses to utilize Project Management Software selected by the Owner, the Owner will provide or arrange for a login license for the applicable parties, at no cost to the applicable parties. The Owner will provide or arrange for initial software training to the applicable parties. Except for licenses and initial training, the Owner assumes no responsibility for any real or potential costs associated with the use of the software by the applicable parties.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The terms "Owner", "State", or "State of Minnesota" wherever they appear in the Contract Documents is the State of Minnesota. The authorized representative for the State of Minnesota is the Commissioner of Administration or his/her representative. Unless noted otherwise, the Commissioner's representative for the discharge of this Contract is the Division of Real Estate and Construction Services.

§ 2.1.2 Not Used.

§ 2.2 Not Used.

§ 2.2.1 Not Used.

§ 2.2.2 Not Used.

§ 2.2.3 Not Used.

§ 2.2.4 The Contractor and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, Section 13.11 applies to this contract.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The term or word "Architect" or "Architect of Record" used in the Contract Documents shall mean Architect, Engineer, Designer, or other person or entity designated by the Owner to perform the Architect's role required by the Contract Documents.

§ 2.3.3 If the Architect of record for the Contract is no longer employed by the Owner or is otherwise unable to

fulfill the required obligations of the Contract, the Owner shall designate a responsible party to fulfill the obligations under the Contract. The Owner reserves the right to designate itself.

§ 2.3.4 If required by the contract documents, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site and any other information it has available. Within 20 days of receipt, the Contractor is required to review any materials (such as surveys, soil tests, existing structures or conditions, locations of utilities, etc.) furnished by the Owner, and notify the Owner of the discovery of any inaccuracy. The furnishing of this material by the Owner shall not relieve the Contractor of its responsibilities under the Contract Documents. The Owner will provide any information required by the Contract Documents reasonably necessary to execute the work. The Owner makes no representations, warranties or guarantees as to the accuracy of information provided to the contractor.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3.7 Security features of building plans, specifications, and drawings of state-owned facilities and non-state-owned facilities leased by the state are classified as nonpublic data when maintained by the Department of Administration and may be shared with anyone as needed to perform duties of the commissioner. However, consultants and contractors shall not release these plans and specifications to anyone without the Owner's approval.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor fails or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such failure or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. The amounts charged to the Contractor are subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. Article 15, Claims and Disputes does not apply to a request by the Owner that the Architect approve the use of the remedy provided in Section 2.4.

§ 2.6 Owner's Use of the Project

The Owner shall have the right to take possession of and use completed or partially completed portions of the work even though the time of completing the entire work, or such portion thereof, may not have expired, and such use shall not constitute acceptance thereof. The Owner's possession will not interfere with the Contractor's work. The Owner may engage in move-in activities such as furniture installation but will not physically occupy the work until such work is accepted by, and occupancy permit is issued by, the code jurisdiction of authority.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents. The Contractor shall not perform any work unless and until the Contractor is in compliance with Article 3.11 Documents and Samples at the Site and Article 3.12 Shop Drawings, Product Data and Samples.

§ 3.1.3 The Contractor, when requested by the Architect, shall meet with the Architect and the Architect's representative and consultants, at reasonable times and furnish all information requested. The Contractor shall allow the Architect, the Architect's representatives and other Architect or Owner consultants full access to the work to facilitate inspection of the Work. Neither the Owner nor Architect shall be liable to the Contractor for extra compensation or damages for interference or delays on account of any meeting, and the supply of information, tests or inspections or other tasks related to the project. The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Owner, the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by the Owner, the Architect, or persons or entities other than the Contractor. Claims may be made in accordance with Article 15 of the AIA A201.

§ 3.1.4 The contractor shall employ and/or subcontract with subcontractors that are qualified to successfully complete the Work indicated in the Contract Documents and within the contract time specified.

§ 3.1.5 Additional Contractor Requirements.

The following are contract requirements that are submitted with the response to the State's Request For Bids solicitation and are requirements of this Contract:

- .1 Construction Contractor Registration.** The contractor and subcontractors shall be registered with the Minnesota Department of Labor and Industry in accordance with Minnesota Statute §326B.701. Per Minnesota Statute § 326B.701, unless exempt, any Person, as defined by Minn. Stat. § 181.723, subd. 1(a), who performs public or private construction services must register with the Department of Labor and Industry (DLI). Registration is required prior to receiving a contract award. For additional information, and to register, go to www.dli.mn.gov/register or call 651.284.5074.
 - .1 Building construction contractors, including independent contractors, subcontractors, and business entities providing public or private sector commercial or residential building construction or improvement services must be registered with the Department of Labor and Industry (DLI).
 - .2 The registration requirement does not apply to workers and businesses that are already licensed, registered, or certified with the Department of Labor and Industry (DLI), nor does it apply to employees.
 - .3 General or Prime Contractors will be able to verify that subcontractors are registered on the searchable Department of Labor and Industry Contractor Look-Up web site.
 - .4 The law provides for penalties for failure to register, hiring unregistered contractors, misclassifying employees, and coercing others to form a business entity.
 - .5 The contractor shall submit the certification and information contained in the Request For Bids (RFB) solicitation.
- .2 Responsible Contractor.** The contractor shall submit the certification and information contained in the Request For Bids (RFB) solicitation. A responsible contractor is defined as a contractor that conforms to the responsibility requirements in for its portion of the work on the project and verifies that it meets the minimum criteria as defined in Minn. Statute. § 16C.285 subd. 3 (1) through (7). [Minn. Statute § 16C.285 subd. 3]. Signed verification was required in the solicitation response for all of the Contractor's first-tier subcontractors that the Contractor intended to retain for work on the project. If the prime contractor or any subcontractor retains additional subcontractors on the project, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit a supplemental verification list naming the added subcontractors which verifies the subcontractors have certified they are in compliance within 14 days of retaining the additional subcontractors. Upon request from the Owner, the prime contractor shall submit copies of the signed certifications of compliance from all subcontractors of any tier.
- .3 Workforce (Affirmative Action) Compliance.** When the value of the contract is in excess of \$100,000 and the contractor has more than 40 employees, the State of Minnesota – Work Force Certification form is required. See the Request For Bids (RFB) solicitation for the form to use. Vendors are cautioned to read closely the section listed elsewhere in this specification titled, "Notice to Prime Contractors, Affirmative Action Certificate of Compliance", Division 00 73 35.
- .4 Equal Pay Certification.** When the value of the contract is in excess of \$500,000, the Contractor must obtain an Equal Pay Certificate from the Minnesota Department of Human Rights (MDHR) or claim an exemption See the Request For Bids Solicitation for obtaining this certification prior to contract execution.

A responder is exempt if it has not employed 40 or more full-time employees on any single working day during the previous 12 months in Minnesota or the state where it has its primary place of business. Please contact MDHR with questions at: 651-539-1095 (metro), 1-800-657-3704 (toll free), 711 or 1-800-627-3529 (MN Relay) or at compliance.MDHR@state.mn.us

- .5 Subcontractor Reporting** The State of Minnesota is committed to diversity and inclusion in public procurement. If the total value of the contract may exceed \$500,000, including all extension options, this must be tracked and reported on a quarterly basis, the amount spent with diverse small businesses. When this applies, free access to a portal for this purpose, and the requirement will continue as long as the contract is in effect.

§ 3.1.6 Eligible Targeted Group, Economically Disadvantaged, and Veteran Owned Small Businesses.

When a Targeted Group (TG), Economically Disadvantaged (ED), and Veteran-Owned (VO) Small Business (TG/ED/VO) subcontracting goal percentage is established in the Request For Bids solicitation the contractor shall make a good faith effort to utilize TG/ED/VO contractors, vendors and material suppliers and reach the established goal percent. Targeted Group, Economically Disadvantaged, and Veteran-Owned small businesses that can be used to meet subcontracting goals **MUST be certified by the Department of Administration, Office of State Procurement** at the time of the subcontractor's work on the construction project. Prime contractors are responsible for checking for eligible (TG/ED/VO) subcontractors listed on the MMD web site under NAICS Code 1500001 at <http://www.mmd.admin.state.mn.us/process/search> and must work with the Vendor Management Specialist at 651.296.2600 or MMD.TGBReporting@state.mn.us to ensure that proposed (TG/ED/VO) subcontractors are eligible. Prime contractors that are listed under NAICS Code 1500001 meet this subcontracting requirement just by being an eligible Targeted Group, Economically Disadvantaged, or Veteran-Owned Small Business. If an eligible TG/ED/VO business is bidding this project as a prime contractor and they choose to use other eligible TG/ED/VO businesses as subcontractors they should, for reporting purposes, list those subcontractors in their response. See the Request For Bids solicitation for additional information and for calculating the participation goal percentage.

§ 3.1.7 Requirements for Affirmative Action to Ensure Equal Employment Opportunity. (Work Force Participation Goals).

The Request For Bids solicitation establishes and contains goals for minority and female workforce participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work. These goals are applicable to all the contractor's construction work (whether or not it is State or State assisted performed in the covered area). The goal percentage varies by the county the project work will occur. See the Request For Bid solicitation for percentages and additional affirmative action information. Failure to achieve the goals set in the Request for Bid solicitation may result in penalties.

§ 3.1.8 Certification of Nondiscrimination (In accordance with Minnesota Statute § 16C.053).

The following term applies to any contract for which the value, including all extensions, is \$50,000 or more: Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall make every effort to identify inconsistencies that may exist. Before starting each portion of the Work, carefully study and compare the Drawings, Specifications, Addenda and other Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4 and shall observe and take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. The Contractor shall promptly report in writing to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. The Architect will respond pursuant to Sections 4.2.11 and 4.2.12. The Contractor shall not start any portion of the Work if uncertain about the meaning or intent of the Contract Documents. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2, 3.2.3 and 3.2.5, the Contractor shall make claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 and 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations.

§ 3.2.4 The Contractor shall be responsible for accurately staking new work on the site, and shall run the axis lines locating the work, establish correct datum points, and check each line and point on the site to ensure accuracy. All such lines and points shall be carefully preserved throughout construction. The Contractor shall (1) lay out all work from dimensions given on drawings, (2) take measurements and verify dimensions of existing or old work, if any, that affect the work or to which its work is to be fitted, (3) be responsible for the correctness of all measurements and shall verify all grades, lines, levels, elevations and dimensions shown on the drawings, and (4) report any errors or inconsistencies to the Architect prior to commencing work in the form as the Architect may require.

§ 3.2.5 No Change to the Contract Sum will be allowed on account of minor differences between actual field conditions and the Contract Documents. A minor difference is defined as a requirement in the contract documents that is not materially different from the actual field condition(s).

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be fully and solely responsible for the jobsite safety of means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall propose alternative means, methods, techniques, sequences, or procedures. The Owner shall be responsible for damages arising from the Owner knowingly directing the Contractor to perform unsafe work. Nothing in this Section 3.3.1 shall be construed as limiting any claims the Owner or Contractor may have against the Architect for any such loss or damages.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents specifically require work to be performed beyond normal working hours, weekends or holidays, or should the completion time require work to be performed at said times, or should the Contractor elect to perform work at said times, with the permission of the Owner, any additional costs resulting from working at said times are the Contractor's sole responsibility.

§ 3.4.2 Except in the case of minor changes in the Work authorized by the Architect in accordance with Section 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive. By making a request for a substitution, the Contractor:

- .1 Represents that the Contractor has personally investigated the proposed substitute item, material and/or process, and determined that it is equal or superior in all respects to that specified.
- .2 Represents that the Contractor will provide the same or better warranty for the substitute item than that provided with the specified item.
- .3 Certifies that the cost data presented at the time of the request is complete and includes all related costs under this contract, including the Architect's review and redesign costs, and waives all other claims for

additional costs related to the substitution that are not presented with the request.

- 4 Will coordinate the installation of the accepted substitute, implementing minor changes that are required for the work to be completed, in accordance with Section 7.4.

The above representations, certifications and agreement to coordinate do not obligate the Owner to consent to the substitution. Owner consent to the substitution does not constitute approval of the cost data submitted unless the cost data is specifically approved in writing.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. The Contractor shall, upon the Owner's request, remove any subcontractor that is unqualified, intemperate, disorderly, is performing work in an unsafe manner, or has failed to comply with the terms of any permit applicable to the Work or requirements applicable to the work.

§ 3.4.4 Hazardous Materials Banned

§ 3.4.4.1 Products Containing Certain Types of Polybrominated Diphenyl Ether Banned

Contractor certifies that it has read and will comply with Minn. Stat. §§ 325E.385 through 325E.388

<https://www.revisor.mn.gov/statutes/cite/325e.385>

<https://www.revisor.mn.gov/statutes/cite/325E.386>

<https://www.revisor.mn.gov/statutes/cite/325E.387>

<https://www.revisor.mn.gov/statutes/cite/325E.388>

§ 3.4.4.2 Asbestos Containing Materials Banned

No asbestos containing materials shall be brought on the project site, installed on the project, or used in the installation of Work for the project. See Section 10.3 – Hazardous Materials.

§ 3.4.4.3 Restrictions on Purchasing and use of Undiluted Coal Tar Sealers

Undiluted coal tar sealers will not be used on the project. Undiluted coal tar sealers are defined as any sealant containing coal tar that has not been mixed with asphalt and is intended for use on asphalt surfaces, including driveways and parking lots. See MN Statute 116.202 <https://www.revisor.mn.gov/statutes/cite/116.202>

§ 3.4.5 Recycling and Waste Management

For all State bonded construction, renovation, or demolition projects costing \$5,000,000.00 or greater that are located within 40 miles of a construction and demolition waste recycling facility, the Contractor and any subcontractors must divert from deposit in a landfill and must recycle at least 50 percent of the nonhazardous construction and demolition waste, measured by tonnage or volume, produced by the project or demonstrate that the waste was delivered to construction and demolition waste recycling facilities that maintain a 50 percent annual recycling rate. The Contractor shall submit a Waste Management and Recycling Program Plan for these projects to the Architect who shall review and submit it to the State for final approval. If the project plans and specifications for the project carry a more stringent requirement for recycling as it applies to quantity recycled, project cost, project funding source, or haul distance to a recycling facility, the more stringent requirement will apply.

§ 3.4.6 Build America, Buy America Act (BABA)

For projects that require and have Federal funds appropriated the contractor, subcontractor and material suppliers will abide by the Build America, Buy America Act as enacted as part of the Infrastructure Investment and Jobs Act on November 15, 2021. BABA requires that all iron, steel, manufactured products, and construction materials used in federally funded projects for infrastructure must be produced in the United States

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of specified or superior quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The warranty is not limited by the provisions of Section 12.2. Guarantees required by the Contract Documents shall not exclude or otherwise limit the Owner's possible remedies at law and shall not be construed as a waiver by the Owner of any other remedy.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for all other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received. **All such fees, including sewer and water access charges, Minnesota Pollution Control Agency general storm water permits, and Federal Water Permits, shall be paid by the Contractor and failure to account for all such charges shall not increase the Contract Sum unless allowances were identified in the construction documents.** Total fees charged for a Building Permit may not exceed the amount prescribed in the latest edition of the Minnesota State Building Code. Procurement of permits does not relieve the Contractor of the requirement for complying with the Contract Documents that exceed the requirement of governing laws, ordinances and statutes.

Note: If the project is utilizing Federal Funds, supporting documentation for compliance will be required in regard to the following: The Solid Waste Disposal Act, the Clean Air Act, and the Federal Water Pollution Control Act.

§ 3.7.1.1 National Pollutant Discharge Elimination System

(NPDES) PERMIT. Pollution of natural resources of air, land and water by operations under this Contract shall be prevented, controlled, and abated in accordance with the rules, regulations, and standards adopted and established by the Minnesota Pollution Control Agency (M.P.C.A.) and the following:

- .1 By signing the Contract and completing the NPDES permit application, the Contractor is a co-permittee with the Owner to ensure compliance with the terms and conditions of the General Storm Water Permit for Construction Activity (MN R100001) and is responsible for those portions of the permit where the operator is referenced. This Permit establishes conditions for discharging storm water to waters of the State from construction activities disturbing one acre or more of total land area. A copy of the "General Permit Authorization to Discharge Storm Water Associated with a Construction Activity Under the National Pollutant Discharge Elimination System (NPDES)/State Disposal System Permit Program" is available at: <http://www.pca.state.mn.us/index.php/water/water-types-and-programs/stormwater/construction-stormwater/construction-stormwater.html>.
- .2 The Contractor shall apply and pay for the NPDES Permit on this Project. Payment for the application shall be incidental to the Contract and no direct compensation will be made. The Owner will provide the Contractor information on how to complete the Owner's portion.
- .3 No work which disturbs soil and/or work in waters of the state will be allowed on this Project until the NPDES Permit is in effect and the department has received the required documentation.
- .4 The Contractor shall be solely responsible for complying with the requirements listed in Part II.B and Part IV of the General Permit.
- .5 The Contractor shall be responsible for providing all inspections, documentation, record keeping, maintenance, remedial actions, and repairs required by the permit. All inspections, maintenance, and records required in the General Permit Paragraph IV.E, shall be the sole responsibility of the Contractor. The word "Permittee" in these referenced paragraphs shall mean "Contractor". Standard forms for logging all required inspection and maintenance activities shall be used by the Contractor. All inspection and maintenance forms used on this Project shall be turned over to the Architect/Engineer every two weeks for retention in accordance with the permit.
- .6 The Contractor shall have all logs, documentation, inspection reports on site for the Architect/Engineer's review and shall post the permit and MPCA's letter of coverage on site. Meetings with the MPCA, Watershed District, WMO, or any local authority shall be attended by both the Architect/Engineer and the Contractor or their representatives; the Contractor and/or the Architect/Engineer shall contact the Owner prior to a scheduled meeting. No work required by said entities, and for which the Contractor would request additional compensation from the Owner, shall be started without approval from the Architect/Engineer. No work required by said entities and for which the changes will impact the design or

- requirements of the Contract documents shall be started without approval from the Engineer.
- .7 The Contractor shall immediately notify the Engineer of any site visits by Local Permitting Authorities performed in accordance with Part V.H.
 - .8 Emergency Best Management Practices must be enacted to help minimize turbidity of surface waters and relieve runoff from extreme weather events. It is required to notify the MPCA Regional contact person within 2 days of an uncontrolled storm water release.
 - .9 The names and phone numbers of the MPCA Regional Contact personnel can be found at: <http://www.pca.state.mn.us/water/stormwater/stormwater-c.html>. The Contractor is reminded, during emergency situations involving uncontrolled storm water releases that the State Duty Office must be contacted immediately at 1-800-422-0798 or 1-651-649-5451.
 - .10 The Contractor shall review and abide by the instructions contained in the permit package. The contractor shall hold the Owner harmless for any fines or sanctions caused by the Contractor's actions or inactions regarding compliance with the permit or erosion control provisions of the Contract Documents.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. Except in those Municipalities that provide State-approved electrical inspection, all installation of electrical work shall be inspected by the Minnesota Board of Electricity. The Contractor shall procure and pay for all required electrical inspections.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction. This requirement does not relieve the Contractor of the responsibility for complying with the Contract Documents if the Contract Documents requirements exceed those of governing codes and regulations.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those affirmatively indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that could not have been anticipated and which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, or (3) are not observable prior to bidding or inferable by the type of construction, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those affirmatively indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, or archaeological sites not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15. Additionally, Contractors shall comply with Minnesota Statute 307.08.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order and in accordance with Section 7.4. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall be assigned continuously to the work from Notice to Proceed until Final Completion. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. The Contractor shall communicate with the Owner through the Architect.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. Failure of the Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed, and the Contractor shall not change the Superintendent unless the Superintendent ceases to be employed by the Contractor."

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 No later than 10 days following the date the Contractor receives written notice to proceed from the Owner, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor shall prepare and keep current, for the Architect's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Architect reasonable time to review submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 The schedule submitted by the Contractor shall have a completion date that corresponds to the completion date set forth in the Contract Documents. The Contractor is responsible for meeting this schedule without any adjustment to the Contract Sum, and by executing the Contract, the Contractor confirms that it is capable of properly completing the work within the completion date set forth in the Contract Documents."

§ 3.10.5 The Contractor must provide a minimum of five working days prior notice for specified testing or inspections that are to be performed by the Owner or Separate Contractors. Such testing and inspections shall be included in the Contractor's schedule."

§ 3.10.6 If the Contractor, Architect, or Owner determines at any time, and for any reason, that the work has fallen fifteen (15) calendar days or ten (10) working days, behind the scheduled contract time, milestone date, phased work completion date, critical path date, or work indicated on the latest submitted schedule, the Contractor shall submit a Recovery Schedule within seven (7) calendar days of the Architect's written request or date the Contractor has knowledge that the work has fallen behind. The Contractor shall also submit a Recovery Plan indicating actions to be taken to recover the schedule. The Recovery Plan shall document the following:

- .1 Description of work that is behind schedule
- .2 Reason for work being behind schedule. If the Contractor claims that the delay is due to an event or condition that was outside the Contractor's ability to control, the Contractor shall include all documentation sufficient to justify the delay in accordance with Sections 8.3.1, 8.3.2, and 8.3.3
- .3 Identification of all resources necessary to recover the schedule including all materials, labor, equipment and changes in operations.
- .4 Detail of all additional resources necessary to recover the schedule including, but not limited to additional quantities of manpower, overtime, increased number of hours per day, increased number of work shifts per day, increased number of work days per week.
- .5 Duration of time necessary to Recover the Schedule.

The Contractor shall implement the Recovery Plan and recover the schedule at no cost to the owner and no additional contract time unless the claim is substantiated and approved in accordance with Section 8.3 and Article 15. A breach and default of contract shall result from the Contractor's failure to provide the Architect and Owner with the Recovery Plan and Recovery Schedule and/or failure to implement the Recovery Plan. Should the Contractor claim and provide sufficient documentation to substantiate that the delay was beyond the control of the Contractor the Owner shall reserve the right, in its best interest, to determine if the Recovery Plan and Schedule shall be implemented.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

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

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents including future and related work contained in the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal

and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law but may hire professionals registered in the State of Minnesota when required to perform engineering or architectural services.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed/registered design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor is responsible for all cutting, patching, drilling, fastening, anchoring of all new and existing construction required to complete the work. All areas shall be restored to the condition existing prior to the cutting, patching, drilling, fastening, anchoring, and fitting unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a Separate Contractor, the Contractor's consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 The cost of cleanup performed by the Owner as a result of the Contractor's failure to provide the cleanup required by the Contract Documents, shall be deducted from the Contract Sum.

§ 3.16 Access to Work

The Contractor shall provide the Owner, Architect, their consultants, other persons authorized by the Owner, and Authorities having jurisdiction over the work, access at all times to the project site and to Work in progress, in preparation or completed. The Contractor shall provide safe and proper facilities for such access and for testing, inspections and separate Contracts and shall secure and protect samples and testing equipment.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, and in accordance with Article 11, the Contractor shall indemnify and hold harmless the Owner, Owners' Representatives, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 The obligations of the Contractor under this Section 3.18 shall not negate, abridge or reduce the liability of the Architect, the Architect's consultants and agents and employees of any of them.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The term or word "Architect" or "Architect of Record" used in the Contract Documents shall mean Architect, Engineer, Designer, or other person or entity designated by the Owner to perform the Architect's role required by the Contract Documents.

§ 4.1.2 The Owner shall have sole authority to modify or extend the authority of the Architect.

§ 4.1.3 If the Architect of record for the Contract is no longer employed by the Owner or is otherwise unable to fulfill the required obligations of the Contract, the Owner shall designate a responsible party to fulfill the obligations under the Contract. The Owner reserves the right to designate itself.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the final payment is due. The Architect will have

authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work. However, where the Architect observes deficiencies in the Work, or where the Architect observes the Contractor or Subcontractor failing to execute the work in accordance with the Contract Documents, the Architect shall, within 24 hours, notify the Contractor and Owner, in writing, of all such deficiencies. The Architect shall promptly notify the Owner when, in the Architect's opinion, the work should be stopped. Authority to stop the work shall rest with the Owner.

§ 4.2.4 Communications

The Owner and Contractor shall include and/or notify the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols. The Owner may communicate directly with the Contractor and Subcontractors and advise the Contractor and Architect of those communications.

§ 4.2.5 Based on project site observations and evaluations of the Contractor's application for payment, the Architect shall determine the amount owing to the Contractor and shall sign and issue the application and certificate for payment. Such signature and issuance shall constitute a representation by the Architect to the Owner that, in the Architect's professional opinion, the work has progressed to the point indicated, the quality of the work is in accordance with the Contract Documents, and the Contractor is entitled to payment in the amount certified. The Architect is responsible for deducting from the Contractor's Application for Payment the value of work not completed, not conforming to Contract Documents, or otherwise in dispute.

§ 4.2.6 The Architect has authority and responsibility to reject Work that does not conform to the Contract Documents. All such rejected work shall be removed from the site as soon as possible at no expense to the Owner. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval

of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; will receive, review and forward to the Owner, for the Owner's review and records, written warranties, operations and maintenance manuals, and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10. The Architect will determine substantial completion date(s) in accordance with Article 9.8.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of the Project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. If a question, dispute or controversy between the Owner and Contractor arises out of a provision of the Contract Documents, or the Architect's interpretation thereof, for which a decision process is not otherwise prescribed in the Contract Documents and which the parties are unable to resolve through Change Order or otherwise, the Owner and the Contractor may exercise legal remedies available to them.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

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

§ 5.1.3 The Contractor shall include the following in any Contract with a Subcontractor: The attention of the Subcontractor is directed to Minnesota Statutes, Chapter 574, which requires the prime Contractor to file a payment and performance bond for the project with the State of Minnesota. Section 574.31 of that Chapter states the limit of time within which a subcontractor must take certain actions specified therein to preserve a claim for nonpayment against the payment bond surety. Subcontractors of any tier may not bring claims against the Owner.

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

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, no later than ten (10) days following the date on which the Contractor received written notice to proceed from the Owner, shall furnish in writing to the Owner through the Architect the names of the persons or entities (including those

who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.1.1 Responsible Contractor Requirement –See Section 3.1.5

Verification of Compliance with Minn. Stat. § 16C.285, Subd. 3, Signed verification was required in the solicitation response for all of the Contractor's first-tier subcontractors that the Contractor intended to retain for work on the project. If the prime contractor or any subcontractor retains additional subcontractors on the project, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit a supplemental verification list naming the added subcontractors which verifies the subcontractors have certified they are in compliance within 14 days of retaining the additional subcontractors. Upon request from the Owner, the prime contractor shall submit copies of the signed certifications of compliance from all subcontractors of any tier.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Sub contractual Relations

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's

compensation shall be equitably adjusted for increases or decreases in cost resulting from the suspension.

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

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

§ 6.1.3 Where multiple Contracts are in effect, or the Owner is utilizing its own forces for a portion of the Work, the Contractor's schedule and progress shall govern the work of other Contractors. The Contractor shall provide reasonable advance notice to other Contractors and the Owner regarding the schedule and Work to be performed by them. The other Contractors and/or the Owner's forces shall, after such notification, diligently proceed with their portion of the Work, including furnishing, installation, laying out or incorporation of Work, so as not to delay or impede the Contractor or its job progress.

§ 6.1.4 Not Used

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly correct damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner's own forces and each Separate Contractor shall have the same responsibilities for cutting and patching for their work as are described for the Contractor in Section 3.14.

§ 6.2.6 Claims and disputes between the Contractor and separate Contractors are subject to the provisions of Article 15. The Contractors will indemnify, defend and hold harmless the State, and any of its consultants or agents against any claims arising from any such dispute. Notwithstanding the foregoing, any legal representation to defend the Owner is subject to the approval of the Minnesota Attorney General, and, at the Owner's discretion, the Contractor will pay the attorney fees in lieu of defending the Owner.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the

Owner may clean up and the Architect will assess the cost to those responsible.

ARTICLE 7 CHANGES IN THE WORK

In Article 7, and throughout the contract documents, whenever the term “Change Order” is used, it shall be substituted with the term “Supplemental Agreement”. This includes all companion documents utilized for construction contract administration.

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive, written approval from the Owner, or written order for a change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor Contractor; a written order for a change in the Work may be issued by the Architect alone along with written approval from the Owner; a written approval form from the Owner may be issues by the Owner alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

For purpose of this section a change order is termed a Supplemental Agreement (SA)

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods and requirements used in determining adjustments to the Contract Sum shall include those listed in Sections 7.3.4 through 7.3.9. The Contractor shall provide costs broken down into material and labor units with their respective unit costs in accordance with Section 7.3.4. The Owner shall not be obligated to make payment for change orders or be liable for late payments and interest on changes until the Contractor provides cost breakdowns as required by Section 7.3.4 and until a Change Order is executed.

§ 7.2.3 The Contract sum and Contract time shall be adjusted only by Change Order and the Contractor shall provide documentation of changes in accordance with Section 7.3.4. The Contractor shall itemize the costs of the changes and provide material and labor cost breakdowns to support the costs being claimed as a result of the change. The signature of the Contractor on the Change Order binds the Contractor to all terms thereof and shows the Contractor's complete agreement therewith.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly. The Contract Sum and Time can only be changed by a subsequent Change Order in accordance with Sections 7.2 and 7.3.4.

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

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the change shall be incorporated into the contract by Change Order and the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data provided in accordance with Sections 7.3.4, to permit evaluation.
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon; or
- .3 For CM at Risk projects, Actual Costs of the work with a GMP and a fee in accordance with terms and conditions listed in section 7.3.4 and section 6 of the AIA133.
- .4 As provided in Section 7.3.4 through 7.3.9.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, the Contractor shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Labor costs are limited to the published and specified prevailing hourly basic rate or the negotiated hourly rate whichever is higher plus applicable multipliers for overtime, weekends and holidays, plus labor burden including: social security and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance; and actual net payroll taxes. Except as provided for in Section 7.3.4.5, further markups to labor are not permitted. The Contractor and Sub Contractor may express labor burden as a fixed percentage of the base hourly rate, however, such percentage is subject to audit and adjustment by the Owner or Owners Agent at any time. Labor hours may include only workers and working foreman directly involved in performing the Change Order work. If there is any overhead and profit included in field labor rates for sub-contractors or contractor then their shall be no change order markup percentage to labor as noted in point .5 below. In addition, there is to be no blended labor rates allowed on change orders.
- .2 Net actual Contractor or Subcontractor costs of itemized materials including applicable sales taxes, supplies and equipment, including cost of transportation, whether incorporated or consumed.
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others; equipment with an original purchase cost of more than \$500 and when rented from the Contractor or Subcontractor(s), the maximum rate is limited to 75% of the rental rate as set forth in Rental Rate Blue Book for Construction Equipment by Dataquest (latest edition) and shall include fuel and maintenance.
- .4 Costs of bond premiums, permit fees and taxes incurred by the contractor as a result of additional work that is approved by the owner. Payment for bond premium increases and additional permit fees will be made in accordance with Article 7.2 and upon presentation by the Contractor of proof of payment, or invoice related to the additional Work.
- .5 Direct costs for supplemental work, overhead and profit allowed. In addition to the costs provided for in Article 7.3.4, lines 2, 3, 4, Contractors and subcontractors may add up to 10% of the direct cost of their own labor, 5% of the direct cost of materials and equipment and 5% of the cost of subcontractors and sub-subcontractors. The total mark-up for OH&P for all tiers involved in a change to the contract sum shall not exceed 20 percent. OH&P may be less than the foregoing amounts depending on the nature, extent or complexity of the change when it is not commensurate with the responsibility and administration involved with the change, such as the Contractor merely processing a substantial Change Order to a Subcontractor or the Contractor processing a Change Order for additional equipment required by the change. Costs for material distribution, tools, consumables (including safety equipment), equipment fees, project difficulty, warranties, supervisory equipment, Change Order pricing and preparation or similar fees are defined as overhead costs.
- .6 Direct and Indirect Costs Covered by Mark-up Percentages. As a further clarification, the agreed upon maximum markup percentages allowable are intended to cover the Contractor's and Sub Contractors profit and all indirect costs associated with the Change Order Work. Items intended to be covered by the maximum markup percentages allowable include, but are not limited to: home office expenses, branch office and field office overhead expenses of any kind; officers; project management; safety director, superintendents, general foremen; non-working foremen, estimating, engineering; coordinating; expediting; purchasing; detailing; legal, accounting, data processing or other administrative expenses; shop drawings; permits; parking expenses; auto insurance and umbrella insurance; auto and pick-up truck costs; and warranty expense costs. The cost for the use of small tools is also to be considered covered by the maximum markup percentages allowable. Costs not included in this section requires prior approval by the Owner
- .7 The documentation for adjustment to the Contract sum shall include the following for each Contractor and subcontractor of any tier and must be in form provided by or agreed to by the Owner.
 - a. Name of Project.
 - b. Name of the Contractor or Subcontractors.
 - c. Name of material and equipment suppliers.
 - d. A detailed description of the work performed and reference to proposal requests and Change Order Directives.
 - e. Breakdown of labor and material costs are mandatory, including subcontractor and material supplier costs.
 1. Labor costs shall include number of hours and, hourly rates by trade and, based on certified

- payroll.
2. Material costs shown separately and individually by unit and unit price. Must include copies of materials invoices.
 3. Calculation of the amount of OH&P added; see 7.3.4.5 for OH&P calculation requirements.
 4. Signature of Contractor and involved subcontractors
 5. Must be submitted on State Approved form and format.
- .8 The Owner may, at the Owner's sole discretion, waive the requirement for the cost breakdown of changes that total \$1,500.00 or less and utilize a lump sum.
- .9 Deduct Change Order and Net Deduct Changes: The application of the mark-up percentage referenced in the preceding paragraphs will apply to both additive and deductive Change Orders. In the case of a deductive Change Order, the credit will be computed by applying the percentages as outlined in above so that a deductive Change Order would be computed in the same manner as an additive Change Order. In those instances where a change involves both additive and deductive Work, the additions and deductions will be netted, and the mark-up percentage adjustments will be applied to the net amount.
- .10 Contingency: In no event will any lump sum or percentage amount for "contingency" be allowed to be added as a separate line item in Change Order estimates. Unknowns attributed to labor hours will be accounted for when estimating labor hours anticipated to perform the Work. Unknowns attribute to material scrap and waste will be estimated as part of material costs.
- .11 Not Used.
- .12 Accurate Change Order Pricing Information: Contractor (on behalf of itself and all of its Subcontractors of any tier) agrees that it is responsible for submitting accurate cost and pricing data to support its lump sum Change Order and/or cost-plus Change Order Proposals or other price adjustments under the Contract. Contractor further agrees to submit Change Order Proposals with cost and pricing data which is accurate, complete, current, and in accordance with the terms of the Contract and respect to pricing of the Change Orders, Contractor agrees that any "buy-out savings" on Change Orders shall accrue 100% to Owner, "Buy-out savings" are defined as any savings negotiated by the Contractor with a subcontractor or a material supplier after receiving approval of a Change Order amount that was designated to be paid to a specific Subcontractor or Supplier for the approved Change Order Work.
- .13 Right to Verify Change Order Pricing Information: Contractor (on behalf of itself and all of its Subcontractors of any tier) agrees that any designated Owner's representative/auditor will have the right to examine (copy or scan) the records of the Contractor, Subcontractor or Sub-subcontractor's records (during the Contract period and up to 12 years after final payment is made on the Contract) to verify the accuracy and appropriateness of the pricing data used to price all Change Order Proposal and/or claims. Contractor agrees that if the Owner determines the cost and pricing data submitted (whether approved or not) was inaccurate, incomplete, not current, or not in compliance with the terms of the Contract regarding pricing of Change Orders, an appropriate Contract price adjustment will be made. Such post-approval Contract price adjustments will apply to all levels of Contractors and/or Subcontractors and to all types of Change Order Proposals specifically including lump sum Change Orders, unit price Change Orders, and cost-plus Change Orders.
- .14 Requirements for Detailed Change Order Pricing Information: Contractor, agrees to provide and require all Subcontractors and Suppliers of any tier to provide a breakdown of allowable labor and labor burden cost information. This information will be used to evaluate the potential costs of labor and labor burden related to Change Order Work. It is intended that this information represent an accurate estimate of the Contractor's actual labor and labor burden cost components. This information is not intended to establish fixed billing or Change Order pricing labor rates. However, at the time Change Orders are priced, the submitted cost data for labor rates may be used to price Change Order work. The accuracy of any such agreed upon labor cost components used to price Change Orders will be subject to later review by the Owner. Approved Change Order amounts may be adjusted later to correct the impact of inaccurate labor cost components if the agreed upon labor cost components are determined to be inaccurate.
- .15 For Construction Manager at Risk Change Order work only: Contractor shall not be entitled to any mark-up on the Cost of the Work attributed to a change in the Work (including an increase in the Contractor's Fee, if any) until the cumulative value of accepted Change Orders exceed 5% of the original Contract Sum. In addition, Contractor shall not be allowed to separately charge, as a Cost of the Work or otherwise) any cost identified in Section 7.3.4 above, as such costs are deemed to be covered by Contractor's Fee.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in

the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and a subsequent Change Order shall be executed. A Construction Change Directive signed only by Owner and Architect constitutes a Change in the Contract which the Owner recognizes that the Contractor may be entitled to an adjustment to the Contract Sum if substantiated by the Contractor.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work shall be included in Applications for Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs. For any portion of such cost that remains in dispute, the Architect will make an interim determination for purposes of monthly certification for payment for those costs. That determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 Not Used.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. A subsequent Change Order shall be executed. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time. When a minor change involves an additional cost and adjustment in the Contract Sum or extension of the Contract Time, the change shall require an approval by the Owner and a change order shall be executed. Any change involving product substitutions shall be approved by the Architect and Owner.

§ 7.5 Owner's Right to Preform Changes in the Work

Notwithstanding Article 6, if the Owner does not agree to the Contractor's proposal to perform changes in the work, or if the Owner does not deem it advisable or expedient to proceed on the basis of the proposal, the Owner reserves the right to perform changes in the work with its own forces, or to contract with others to perform the changes.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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

§ 8.1.5 Where the performance of any act is directed, the time shall be computed so as to exclude the first and include the last day of the prescribed period. When the last day of the period falls on Saturday, Sunday or a legal holiday, that day shall be omitted from the computation.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the

Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner; or (5) for causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15. Extensions of Time will be considered and allowed only under the following conditions and/or circumstances, and only if the construction schedule is adversely affected by the change:

- .1** Only those conditions enumerated in Section 8.3.1 above, over which the Contractor has no control will be considered. The burden of proof for the change in time shall rest with the Contractor, including documentation that the condition was beyond its control and documentation as to the extent of the proposed extension.
- .2** A delay in the process of the work actually occurs as a result of one of the valid causes for extension.
- .3** An unusual delay in delivery occurs solely due to delay in common transport beyond the Contractor's control. An extension of time will not be granted for delays in delivery where the delivery was not properly scheduled or an order not placed at an appropriate time to allow delivery or an order is improperly placed.
- .4** With respect to a Change Order proposal for an extension of time due to climatic conditions, the parties shall consider the location of the site and the type of work affected, and shall recognize only unusually severe variations from average conditions. The Contractor must submit, with the request, local U.S. Weather Bureau climatological reports for the period involved plus a report indicating the average precipitation, temperature, wind velocity, etc. for the past 10 years from the nearest reporting station. Foul weather in itself will not be a valid reason for time extension. Requests for time extensions due to weather extremes will only be considered for the overall project based on analysis of the project schedule and will not be considered unless a substantial variation from seasonal average weather conditions occurred for a significant period of time and operations were necessarily affected. If the Contractor encounters unusually favorable weather subsequent to the issuance of a time extension for weather, the Contractor shall cooperate with the Owner and Architect to determine a time reduction based on the same analysis of the construction schedule.
- .5** For changes in the work which significantly affect the time and process of the entire work and where the anticipated delay period can be reasonably calculated at the time the change is requested, any time extension shall be made no later than when the change is authorized by the Owner, and such extension shall be for such reasonable time as the Architect may determine upon analysis of the project schedule. Where the period of delay cannot be reasonably determined at the time the Owner authorizes the change, the Contractor shall estimate the time period of delay and propose a potential mechanism for the Architect to identify a reasonable extension to Contract time. For changes in the work which do not affect the process of the entire work, the Owner reserves the right to grant a time extension only for area, phase, activity or element in the Work affected by the change. Any approved time extension shall be implemented by a Change Order.
- .6** A request for an extension of time made as a result of a labor dispute shall not exceed the actual period of the dispute, plus reasonable mobilization time. Any related, approved extension may be less than the period of dispute, depending on the actual effect the dispute had on the progress of the Work. Lockouts over which the Contractor has control will not be a valid reason for time extension.
- .7** No time extension will be granted for delays resulting from improper scheduling or failure to have shop drawings or samples submitted to the Architect in ample time for a review.
- .8** Delays caused by Subcontractors will be considered for time extension only under the same conditions defined above.

- .9 Except for changes in the work, all requests for extension of time shall be made in writing to the Architect not more than 21 calendar days after the beginning of the first occurrence of the delay. No request will be considered beyond the stated time without the consent of the Owner.
- .10 No time extensions will be granted for delays from failure by the Contractor to schedule inspections, testing and the work of separate contracts.
- .11 Contractor "float" time built into the project schedule may be proportionately deducted from any approved extension.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, no later than ten (10) days following the date on which the Contractor received written notice to proceed from the Owner, a schedule of values, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required and on an Owner prescribed form, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and material suppliers and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 Not Used.

§ 9.3.1.2 Not Used.

§ 9.3.1.3 The Contractor shall comply with Section 9.11 and, shall submit payroll records as prescribed therein and in the Contract Documents and the Contractor shall bind all labor and material subcontractors to this requirement for this project and submit subcontractor payroll records as prescribed in Section 9.11 and the Contract Documents.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site. Should the Owner approve and pay for materials stored in an off-site location, the Contractor shall insure the off-site materials in such a manner as to protect the interest of the Owner against loss of stored materials and against loss of title to and ownership of stored materials.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for

Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.

§ 9.4 Certifying Applications for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) certify the Application for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) certify the Application for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 Certifying the Application for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. Certifying an Application for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. The Architect is responsible for deducting from the Contractor's Application for Payment, the value of the work not completed, not conforming to the Contract Documents, or otherwise in dispute. To the extent this Section 9.4.2 is inconsistent with Article 15, as amended herein, Article 15 shall govern and be incorporated by reference into this Section 9.4.2.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold an Application for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly certify an Application for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold certification on an Application for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of an Application for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied.
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, claims unless security acceptable to the Owner is provided by the Contractor.
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment.
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum; Sum.
- .5 damage to the Owner or a Separate Contractor.
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 Not Used.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 Not Used.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has Certified an Application for Payment, the Owner shall make payment in accordance with Minnesota Statutes 16A.124 which states that the Owner shall make payment within 30 days of receipt by the Owner of non-contested invoices. For this contract, an invoice is defined as an Application for Payment.

§ 9.6.1.1 Unless otherwise provided in the Contract Documents, the Owner shall follow the requirements of MN

Statute 15.72 Subd.1 and Subd. 2

Subd 1 Unless the terms of the contract provide otherwise, a public contracting agency shall make progress payments on a public contract for a public improvement monthly as the work progresses. Payments shall be based upon estimates of work completed as approved by the public contracting agency. A progress payment shall not be considered acceptance or approval of any work or waiver of any defects therein.

Subd 2 A public contracting agency may reserve as retainage from any progress payment on a public contract for a public improvement an amount not to exceed five percent of the payment. A public contracting agency may reduce the amount of the retainage and may eliminate retainage on any monthly contract payment if, in the agency's opinion, the work is progressing satisfactorily.

The public contracting agency must release all retainage no later than 60 days after substantial completion, subject to the terms of this subdivision. If the public contracting agency reduces the amount of retainage, the contractor must reduce retainage for any subcontractors at the same rate.

A contractor on a public contract for a public improvement must pay all remaining retainage to its subcontractors no later than ten days after receiving payment of retainage from the public contracting agency, unless there is a dispute about the work under a subcontract. If there is a dispute about the work under a subcontract, the contractor must pay out retainage to any subcontractor whose work is not involved in the dispute and must provide a written statement detailing the amount and reason for the withholding to the affected subcontractor.

Upon written request of a subcontractor, the public contracting agency shall notify the subcontractor of a progress payment, retainage payment, or final payment made to the contractor.

After substantial completion, a public contracting agency may withhold no more than 250 percent of the cost to correct or complete work known at the time of substantial completion; and one percent of the value of the contract or \$500, whichever is greater, pending completion and submission of all final paperwork by the contractor or subcontractor. For purposes of this subdivision, "final paperwork" means documents required to fulfill contractual obligations, including, but not limited to, operation manuals, payroll documents for projects subject to prevailing wage requirements, and the withholding exemption certificate required by section 270C.66.

If the public contracting agency withholds payment under this paragraph, the public contracting agency must promptly provide a written statement detailing the amount and basis of withholding to the contractor. The public contracting agency and contractor must provide a copy of this statement to any subcontractor that requests it. Any amounts withheld under clause (1) must be paid within 60 days after completion of the work. Any amounts withheld under clause (2) must be paid within 60 days after submission of all final paperwork.

As used in this subdivision, "substantial completion" shall be determined as provided in section 541.051, subdivision 1, paragraph (a). For construction, reconstruction, or improvement of streets and highways, including bridges, substantial completion means the date when construction-related traffic devices and ongoing inspections are no longer required.

Withholding retainage for warranty work is prohibited. This provision does not waive any rights for warranty claims.

For a project funded with federal or state aid, the public contracting agency is not required to pay that portion of the contract funded by federal or state aid until the federal or state aid payments have been received.

Nothing in this section requires payment for a portion of a contract that is not complete or for which an invoice has not been submitted.

Also see MN Statute 15.73 Subd. 1, Subd. 2, Subd. 3, and Subd. 4.

Subd 1. Contractor's option. At the option of the contractor, retainage shall be paid to the contractor in accordance with this section.

Subd. 2. Security. The contractor may deposit bonds or securities with the public contracting agency or in any bank or trust company to be held in lieu of cash retainage for the benefit of the public contracting agency. In that event the public agency shall reduce the retainage in an amount equal to the value of the bonds and

securities and pay the amount of the reduction to the contractor. Interest on the bonds or securities shall be payable to the contractor as it accrues.

Subd. 3. Approval required. Bonds and securities deposited or acquired in lieu of retainage, as permitted by subdivision 2, shall be of a character approved by the commissioner of management and budget, including but not limited to:

- (1) bills, certificates, notes or bonds of the United States;
- (2) other obligations of the United States or its agencies;
- (3) obligations of any corporation wholly owned by the federal government; or
- (4) indebtedness of the Federal National Mortgage Association.

Subd. 4. Recovery of additional costs. If the public agency incurs additional costs as a result of the exercise of the option described in this section, the agency may recover the costs from the contractor by reducing the final payment due under the contract. As work on the contract progresses, the agency shall, upon demand, inform the contractor of all accrued costs.

§ 9.6.1.2 If the Owner incurs additional cost as a result of the exercise of the option described above, the Owner may recover the costs from the Contractor by reducing the final payment due under the Contract. As work on the Contract progresses, the Owner shall, upon demand, inform the Contractor of all accrued costs.

§ 9.6.1.3 If, after the work provided for in the Contract shall have been fifty (50) percent completed, and performed to the satisfaction of the architect, the retainage may be reduced to zero (0) percent on payments for the remaining work. The reduction amount is determined at the sole discretion of the Owner and requires certification by the architect that the Contractor is properly and continuously expediting the work. The Owner reserves the right to retain all or part of retainage after substantial completion until all Contractual obligations are completed in accordance with Section 9.8.5. Partial use or occupancy of the project by the Owner is not sufficient cause for reduction of retainage.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than ten (10) days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.2.1 In accordance with Minnesota Statutes 16A.1245, the Contractor shall, within ten (10) days of receipt of a progress payment, pay all Subcontractors and suppliers having an interest in the Contract their prorated share of the payment for all undisputed services provided by the Subcontractors and suppliers.

§ 9.6.2.2 The Contractor may withhold as retainage from Subcontractor(s) progress payments an amount not to exceed five (5) percent of the payment. The Contractor shall reduce or eliminate the retainage for a Subcontractor in the same manner that the Owner reduces or eliminates the retainage for the Contractor.

§ 9.6.2.3 The enforcement of these conditions shall be the responsibility of the Subcontractor(s) working through the Contractor and the Contractor's surety. To facilitate the resolution of any problems relating to these provisions, the Contractor shall furnish the Subcontractor(s) with the name, address and telephone number of the Contractor's surety within ten (10) days of the date on which the Contractor signs a Contract with the Owner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and material and equipment suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to a Subcontractor or material and equipment supplier.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 Payment by the Owner, based on an Application for Payment, or a Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Not Used.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Not Used.

§ 9.8 Substantial Completion

§ 9.8.1 Except as provided in § 9.8.6, Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 After validating the Contractor's claim of Substantial Completion and accompanying list, the Architect will perform site inspections to verify work completion and prepare a supplemental comprehensive list of items to be completed prior to Substantial Completion and prior to final payments.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner may, at the sole discretion of the Owner, make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete, defective, not in accordance with the requirements of the Contract Documents, or unsettled claims, and shall include the cost of any third party to finish incomplete, incorrect or defective work, and compensation and expenses of the Architect and Owner for work related thereto.

§ 9.8.6 The Owner shall release retainage no later than 60 days following the date of Substantial Completion, subject to the following conditions:

- .1 There is no dispute the construction is sufficiently completed so that the Owner or the Owner's representative can occupy or use the Work for the intended purpose.
- .2 Owner may withhold 250% of the cost to correct or complete any work known at the time of Substantial Completion. The Owner shall make payment to the Contractor for any amounts withheld within 60 days following completion and/or correction of the work.
- .3 Owner may withhold 1.0% of the value of the contract or \$500 whichever is greater pending completion and submission of all final paperwork by the Contractor or Subcontractor. The Owner shall make payment to the Contractor for any amounts withheld within 60 days following submission of all final paperwork. The term "final paperwork" means the documents required to fulfill contractual obligations, including, but not limited to, operations and maintenance (O & M) manuals, payroll documents for projects subject to prevailing wage requirements, and the Department of Revenue withholding certificates (IC -134) required by MN Statute §270.66.
- .4 If the Owner withholds payment pursuant to § 9.8.6.2 or § 9.8.6.3, the Owner shall promptly provide a

written statement detailing the amount and basis for withholding to the Contractor. The Owner and contractor must provide a copy of this statement to any subcontractor that requests it.

§ 9.8.7 For release of retainage only as provided under § 9.8.6 above, the date of Substantial Completion shall be determined by the date when construction is sufficiently completed so that the Owner or the Owner's representative can occupy or use the Work for the intended purpose. For construction, reconstruction, or improvement of streets, highways, including bridges, Substantial Completion means the date when construction-related traffic devices and ongoing inspections of the work are no longer required.

§ 9.8.8 The Contractor shall pay all remaining retainage to its Subcontractors no later than ten (10) days after receiving payment from the Owner unless there is a dispute about the Work under the subcontract. If there is a dispute about the Work under a subcontract, the contractor shall pay out retainage to any Subcontractor whose work is not involved in the dispute and shall provide a written statement detailing the amount and reason for withholding to the affected Subcontractor.

§ 9.8.9 Upon a written request of a Subcontractor, the Owner shall notify the Subcontractor of a progress payment, retainage payment, or final payment made to the Contractor.

§ 9.8.10 Should the Owner reduce the amount of retainage in accordance with § 9.6.1.1, the Contractor shall reduce retainage for any Subcontractors at the same rate.

§ 9.8.11 The Owner shall not withhold retainage for warranty work. The term "warranty work" means work that needs to be corrected but is not yet known at the time of substantial completion. This provision does not waive the Owner's rights for warranty claims.

§ 9.8.12 If the project is funded with federal or state aid, the Owner is not required to pay that portion of the contract funded by federal or state aid until the federal or state aid payments have been received.

§ 9.8.13 Nothing in this Section requires payment for a portion of the contract that is not complete or for which an invoice (payment application) has not been submitted.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner with the consent of Contractor's surety, if required, and consent of authorities having jurisdiction of the work, if required, use or occupy any portion of the work whether or not substantially complete in accord with Sections 9.8 and 2.5.1.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work. The Architect shall prepare an itemized list of incomplete and defective work based on the Architect's observations and inspections of the work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. If the work is determined not to be complete, the Owner may deduct from the Contractor's final payment the cost of all subsequent inspections by the Architect.

§ 9.10.1.1 In the event incomplete, incorrect or defective work is not completed to the Owner's satisfaction within 30 calendar days of the Owner's ten-day notice to the Contractor that such Work is incomplete, incorrect or defective, the Owner may complete and correct work and deduct from the final payment any and all costs incurred by the Owner in completing such Work. At the sole discretion of the Owner, the Owner may agree to a longer or

shorter period of time depending upon the extent of the work and/or material delivery times or availability or access to the work.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner, and (6) Contractor has submitted all closeout items required by the Contract Documents, including, but not limited to, Operations & Maintenance Manuals, As-Built drawings, and properly executed Department of Revenue IC-134 forms. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If a lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents.
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.10.6 Liquid Damages

§ 9.10.6.1 If provided for in the Supplementary Conditions, the Owner will be entitled to deduct liquidated damages from the final payment for failure of the Contractor to complete the projects by the date specified in the Contract. The Contractor will be assessed a charge in the amount specified, not as a penalty, but as liquidated damages to compensate the Owner for all additional costs incurred.

§ 9.10.6.2 The reasonableness of the charge is presumed, and the amount assessed is in addition to any other remedies available to the Owner. The charge will be assessed for each period the entire project is not suitable for use and/or occupancy measured from the first day after the date of Substantial Completion. No liquidated damages will accrue as a result of periods of authorized delays or suspension wherein each day of an authorized delay or suspension will excuse a day of the liquidated damage charge. The charge will be as scheduled in the Supplementary Conditions or Special Conditions.

§ 9.10.6.3 The Owner may waive any portion of or all of the accrued liquidated damages provided (a) the project is ready for use and/or occupancy by the Owner or (b) available for the next stage construction as determined by the Owner.

§ 9.10.6.4 The Owner does not waive any rights under the Contract by the collection of liquidated damages. Liquidated damages will continue to be charged to the Contractor or the Contractor's Surety in the event of Contractor default and Owner continuing or supplementing the work with its own forces or separate Contractors.

§ 9.11 PREVAILING WAGE REQUIREMENTS.

Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this contract is subject to the prevailing wages as established by the Minnesota Department of Labor and Industry. Specifically, all contractors and subcontractors must pay all laborers and mechanics the established prevailing wages for work performed under the contract. Failure to comply with the aforementioned may result in civil or criminal penalties.

The Contractor and Subcontractor shall furnish to the Contracting Authority and the Project Owner all payrolls, of all workers on the project, via E-mail as attachments, to the E-mail addresses provided within Section 00 7343 of this solicitation.

The Contractor and Subcontractor must submit the State of Minnesota Prevailing Wage Payroll Report and Statement of Compliance Form within 14 days after the end of each pay period. The forms are available on the Office of State Procurement (OSP) website at www.mmd.admin.state.mn.us/mn02000.htm. No other payroll forms will be accepted to meet this requirement.

The Contractor and Subcontractor must complete the Prevailing Wage Payroll Report in Microsoft Excel, and the Statement of Compliance in an Adobe PDF. The subject line of the email must give the company name, contract/purchase order number, and pay period ending dates.

The Department of Labor and Industry has a web page with Frequently Asked Questions about prevailing wages at <http://www.dli.mn.gov/ls/FaqPrevWage.asp>. For questions regarding the Prevailing Wage Laws, contact the Department of Labor and Industry at 651.284.5091.

PREVAILING WAGE PROJECT INSTRUCTIONS- Mn/DOT BUILDING CONSTRUCTION ONLY. To meet Minn. Stat. § 177.43 requirements, the Contractor and Subcontractor(s) shall submit payroll forms according to MnDOT (Office of Maintenance, Building Services Section, Transportation Building, Mail Stop 715, 395 John Ireland Blvd., St. Paul, MN 55155-1899) requirements.

1. All Contractors shall submit a payroll statement to the Department of Transportation, Minn. State. § 177.44, subd. 7. The statement shall be submitted based on the Contractor's payment schedule. If a Contractor pays its employees biweekly, a payroll statement shall be submitted biweekly (MnDOT Contract Administration Manual, Section .320). All Contractors shall pay its employees at least once every 15 days on a date designated in advance by the employer (Minn. Stat. § 181.10).

Each Statement submitted shall include all employees that performed work under the contract and provide at a minimum the following information (Minn. Rules 5200.1106, Subpart 10 and Minn. Stat. § 177.30):

- a. Contractor's name, address, and telephone number
 - a. State project number
 - a. Payroll report number
 - a. Project location
 - a. Workweek ending date
 - a. Name, social security number, and home address for each employee
 - a. Labor classification(s) and/or three-digit code for each employee
 - a. Hourly straight time and overtime wage rates paid to each employee
 - a. Daily and weekly hours worked in each labor classification, including overtime hours for each employee
 - a. Authorized legal deductions for each employee
 - a. Project gross amount, weekly gross amount and net wages.
2. Payroll records may be submitted in any form provided it includes all the information contained in Subpart A (1-11) of this section. However, Contractors needing a payroll form may utilize the "front side" of the U.S. Department of Labor's, WH-347 Payroll Form. This form is available by visiting the Labor Compliance website (www.dot.state.mn.us/const/labor).
 2. All payroll records must be accompanied with a completed and signed MnDOT 21658 – Statement of Compliance Form (Minn. Rules 5200.1106, Subpart 10).
 2. The prime contractor is responsible for assuring that its payroll records and those of all subcontractors include all employees that performed work under this contract and accurately reflect the hours worked, regular and overtime rates of pay and classification of work performed. (Minn. Stat. § 177.30(1)(2)(3)(4)).
 2. The prime contractor is responsible to maintain all certified payroll records, including those of all

subcontractors, throughout the course of a construction project and retain all records for a period of three years after the final contract voucher has been issued (Minn. Stat. § 177.30(4)).

2. At the end of each pay period, each contractor shall provide every employee, in writing an accurate, detailed earnings statement. (Minn. Stat. § 181.032).
2. Upon request from the Minnesota Department of Labor and Industry (MN/DLI) or the Department of Transportation, the prime contractor shall promptly furnish copies of payroll records for its workers and those of all subcontractors, along with records, deemed appropriate by the requesting agency to determine compliance with these contract provisions. (Minn. Stat. § 177.44, subd. 7 and Minn. Rules 5200.1106, Subpart 10).
2. At the Department of Transportation's discretion, the project engineer may administer the submission of payroll records according to MNDOT's Payroll Maintenance Program. The guidelines for the implementation and administration of this program are outlined in the MnDOT Contract Administration Manual, Section A(4)(d).
2. If, after written notice, the prime contractor fails to submit its payroll reports and certification forms and those of any subcontractor, the Department of Transportation may implement the actions prescribed in State Funded Construction Contracts Special Provisions Division A – Labor, Section XVI. NON-COMPLIANCE AND ENFORCEMENT available on-line at:
<http://www.dot.state.mn.us/const/labor/documents/contractdocs/specprodivastate.pdf>.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

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

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable, and legally required, precautions for safety of, and shall provide reasonable, and legally required, protection to prevent damage, injury, or loss to

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

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

- .1 Hot work: In addition to legally required and specified protection requirements, the Contractor is responsible for obtaining the Owner's Personnel/Property protection requirements from the facility in which the Contractor is performing the work and to implement a "hot work" safety program during the performance of their work. Hot work is defined as use of any equipment or tools capable of producing heat and ignition sources sufficient to start fires or ignite explosives. The local Facility Manager or Safety Director shall be informed in advance of any hot works necessary for the project. Safety precautions may include the removal or relocation of fire hazards, the provision of guards and fire blankets, coordination and verification of sprinkler systems and a fire watch that extends a minimum of 30 minutes past the conclusion of any hot work.
- .2 Safety Program: The Contractor shall implement and provide documentation on a Safety Program such as AWAIR (A Workplace Accident Injury Reduction Act) program and:
 1. Post Emergency phone numbers and procedures at the project site.
 1. Provide and Post the Contractor's Safety Director's name and phone number
 1. Provide and Post the Contractor's on-site safety representative's name, title and phone number
 1. Conduct weekly Safety Meetings during the performance of the contract and allow owner's safety representatives to be present during the Safety Meetings.

The owner assumes no obligation or liability for safety on the project site or legal and insurance requirements involving safety.

§ 10.2.3 The Contractor shall erect, erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings

against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities.

§ 10.2.3.1 In the event the owner, owner's representative, or architect observe an unsafe or hazardous condition on the project site, they shall have the right, but not an obligation, to stop work until such hazard or safety condition is remedied by the contractor.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel and comply with applicable regulations, laws pertaining to the storage, handling, use, transportation of explosives, hazardous materials or equipment.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

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

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect.

§ 10.3.2 All Contractors shall fully comply with the requirements of Minnesota Statutes, Sections 326.70 through 326.81 and Minnesota Rules, parts 4620.3000 to 4620.3700.

§ 10.3.3 Any Contractor who performs any asbestos-related work or asbestos management activity shall be licensed or certified by the Minnesota Commissioner of Health under Minnesota Statutes Sections 326.70 through 326.81 and shall perform such work or activity in accordance with rules prescribed by the Minnesota Commissioner of Health related to asbestos abatement and asbestos management activity. Without waiver of other provisions in this Article 10.3, the Contractor is not responsible for damages, costs, fines or penalties caused by the handling of pre-existing hazardous materials and substances, except to the extent of the contractor's fault or negligence in the handling of such substances.

§ 10.3.4 If there is a Contract involving existing construction, the Owner will provide to the Contractor an Asbestos Survey Report identifying the building materials containing asbestos. The Contractor shall read and understand the content of the Report and examine the site and facilities as necessary to develop a full understanding of the extent, location, quantity, and conditions of any potential asbestos containing material identified in the Report.

§ 10.3.5 Where potentially hazardous substances have been partially removed from any work area, either prior to or in conjunction with, the construction required under the asbestos abatement Contract, the Owner will provide to the Contractor a copy of the drawings, specifications, or other Documents which indicate the extent of removal work

anticipated to be performed prior to the work of the Contractor. The Contractor shall review and fully understand the extent of the provided Documents and shall make appropriate inspections to ascertain that potential asbestos containing materials have been removed from affected work areas or that they have been encapsulated and will not pose a hazard to employees on the job site.

§ 10.3.6 All Contractors shall know and understand that where asbestos materials may have been partially or fully removed to facilitate the work of the Contractor, that such prior work is not a guarantee that all asbestos containing materials have been completely removed from all areas that might be affected by the work of the Contractor. The Contractor shall protect any asbestos materials that were left in place or that were not shown on the asbestos removal plans as scheduled to be removed.

§ 10.3.7 In responding for this project, the Contractor shall know and understand that it may encounter potential asbestos containing materials that may impede the progress of construction, require changes in the project schedule or changes in the sequences of work, or result in delays in completion. If such an event occurs, the Owner will grant a reasonable Contract time extension, but only if the Contractor could not reasonably have foreseen such conditions and could not reasonably adjust its project schedule to avoid any delays in completion.

§ 10.3.8 Not Used.

§ 10.3.9 The Owner shall not be responsible under Section 10.3 for materials and substances brought to the site by the Contractor or any tier of subcontractor unless such materials or substances were required by the Contract Documents.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall not commence work under the Contract until it has obtained all the insurance required by the specifications and such insurance has been approved by the State of Minnesota, Office of State Procurement. All policies and certificates shall provide that the policies shall remain in force and effect throughout the term of the contract. Contractor will submit all insurance requirements before beginning work. Contractor will list the State of Minnesota as an additional insured.

§ 11.1.2 Commercial General Liability

§ 11.1.2.1 Contractor shall maintain insurance to cover claims arising from operations under this Contract, whether such operations are by the Contractor, Subcontractor, Sub-Subcontractor or by anyone directly or indirectly employed under this Contract. The Owner reserves the right to request additional insurance requirements. Unless otherwise specified, the insurance minimum limits of liability shall be as follows:

- \$2,000,000 – Per Occurrence
- \$2,000,000 – Annual Aggregate applying per project or location
- \$2,000,000 – Annual Aggregate applying to Products and Completed Operations
- \$50,000 – Fire Damage (any one fire)
- \$5,000 – Medical Expenses (any one person per occurrence)

§ 11.1.2.2 The following coverages shall be included:

1. Professional Liability
1. Pollution Liability
1. Excess Umbrella Coverage
1. Premises and Operations Bodily Injury and Property Damage
1. Personal Injury & Advertising Injury
1. Products and Completed Operations Liability, to be maintained for at least 3 years after completion of the work under this contract.
1. Contractual Liability as provided in ISO form CG 00 01 12 04 13 or its equivalent.
1. Pollution Liability Insurance per Insurance Services Office (ISO) Commercial General Liability Coverage Form – CG 00 01 12 04 13 or equivalent
1. Independent Contractors – Let or Sublet work.
1. Waiver of Subrogation in favor of the State of Minnesota

Contractor agrees its coverage will not contain any restrictive endorsement(s) excluding or limiting Broad Form Property Damage (BFPD) or Explosion, Collapse, Underground (XCU).

§ 11.1.2.3 Officers and Employees of the State of Minnesota, the Architect and its agents shall be named as Additional Insureds, to the extent permitted by law, for claims arising out of the Contractor's negligence or the negligence of those for whom the Contractor is responsible for both ongoing and completed operations.

§ 11.1.3 Business Automobile Liability

§ 11.1.3.1 Contractor shall maintain insurance to cover liability arising out of the operations, use, or maintenance of all owned, non-owned and hired vehicle. The Owner reserves the right to request additional insurance requirements. Unless otherwise specified, the insurance limits shall be as follows:

\$2,000,000 – Per Occurrence combined Single Limit Bodily Injury and Property Damage.

§ 11.1.3.2 The following coverages shall be included:

1. Owned Automobiles
1. Hired Automobiles
1. Non-owned Automobiles
1. Waiver of subrogation in favor of the State of Minnesota

§ 11.1.4 Professional Liability – Design Errors and Omissions

§ 11.1.4.1 If the Owner specifies that the Contractor provide design and related services and, pursuant to Section 3.12.10, the Contractor provides such services with its employees, the Contractor shall maintain insurance covering negligent acts, errors or omissions, arising out of the performance of, or the failure to perform, such professional services included in the Contract Documents. Additionally, the Contractor shall require its Architectural and Engineering consultants and their subconsultants, if any, to maintain professional liability insurance. All such insurance shall be maintained for a minimum of five (5) years, if commercially available, otherwise a minimum of three (3) years following completion or earlier termination of the Project. Unless otherwise specified, the insurance minimum shall be as follows:

11.1.4.2 Minimum limit of liability of \$2,000,000 per claim and \$2,000,000 annual aggregate. Any deductible will be the sole responsibility of the Contractor and may not exceed \$50,000 without the written approval of the Owner.

§ 11.1.4.3 If the policy is claims made, it shall contain the following language:

Prior acts or retroactive date of coverage shall not be subsequent to the effective date of this Contract and Contractor shall maintain such insurance for a period of at least five (5) years, if commercially available, otherwise a minimum period of three (3) years, following completion or earlier termination of the Project. If such insurance is discontinued, extended reporting period coverage must be obtained to fulfill this requirement.

Evidence of insurance shall be filed with the Owner prior to start of design services if they are to be provided.

§ 11.1.5 Workers' Compensation

§ 11.1.5.1 Contractor shall provide workers' compensation insurance for all employees and shall require any Subcontractor to provide workers' compensation insurance in accordance with the statutory requirements of the State of Minnesota and must include:

1. Part 2, Employers Liability including Stop Gap Liability for monopolistic states, at limits of not less than:
 - \$100,000 – Bodily Injury by disease per employee
 - \$500,000 – Bodily Injury by disease aggregate
 - \$100,000 – Bodily Injury by accident

1. Coverage C: All States Coverage
1. If applicable, USL&H, Maritime, Voluntary and Foreign Coverage.
1. A waiver of subrogation in favor of the State of Minnesota, as Owner.

§ 11.1.5.2 If Contractor is self-insured for its obligation under the Workers' Compensation Statutes in the jurisdiction where the project is located, a Certification of the Authority to Self-Insure such obligations shall be provided. Evidence of Subcontractor insurance shall be filed with the Contractor.

§ 11.1.6 Aviation and/or Marine Public Liability

§ 11.1.6.1 Should aircraft or watercraft of any kind be used by the Contractor, any tier of Subcontractor or by

anyone else on their behalf, Contractor or Subcontractor shall maintain or cause the operator of the aircraft/watercraft to maintain aircraft/watercraft public liability insurance including bodily injury, property damage and passenger liability, as respects any aircraft/watercraft owned, used, operated or hired in connection with the work by the Contractor, Subcontractor or anyone else in the following limits:

§ 11.1.6.2 Aircraft/ Watercraft Liability - \$10,000,000 Per Occurrence combined Single Limit Bodily Injury and Property Damage. Evidence of insurance shall be filed with the Owner prior to use of equipment on project.

§ 11.1.7 Umbrella or Excess Liability

§ 11.1.7.1 The Contractor shall provide Umbrella or Excess Liability Insurance with limits of not less than \$2,000,000 per occurrence and \$2,000,000 aggregate and with coverage at least as broad as the primary coverages of Commercial General Liability, Employer's Liability and Automobile Liability set forth in Article 11 or use Umbrella or Excess Liability Insurance to supplement the primary policy limits to satisfy the full policy limits required by the Contract. Officers and employees of the State of Minnesota, the Architect and its agents shall be named as Additional Insureds, to the extent permitted by law, for claims arising out of the Contractor's negligence or the negligence of those for whom the Contractor is responsible for both ongoing and completed operations.

§ 11.1.8 Additional Insurance Conditions

§ 11.1.8.1 Primary and Non-Contributory – Contractor's policy(ies) shall be primary and non-contributory insurance to any other valid and collectible insurance available to the State of Minnesota or self-insurance maintained by the State of Minnesota with respect to any claim arising out of this Contract.

§ 11.1.8.2 Contractor is responsible for payment of contract related insurance premiums and deductibles.

§ 11.1.8.3 Insurance Companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the Minnesota Department of Commerce if they are not rated by AM Best.

§ 11.1.8.4 Insurance Companies waive their rights to assert the immunity of the State as a defense to any claims arising out of this Contract.

§ 11.1.8.5 The above establishes minimum insurance requirements. It is the sole responsibility of the Contractor to determine the need for and to procure additional insurance that may be needed in connection with this contract.

§ 11.1.8.6 Certificates of Insurance acceptable to the State of Minnesota shall be submitted prior to commencement of the work under this contract. If the Contractor receives a cancellation notice from an insurance carrier affording coverage herein, the Contractor agrees to notify the State of Minnesota within five (5) business days with a copy of the cancellation notice, unless the Contractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be canceled without at least thirty (30) days advance written notice to the State of Minnesota.

§ 11.1.8.7 Coverage under the General Liability policy(ies) of the Contractor will be as broadly construed for the Owner as is available to the Contractor.

§ 11.1.8.8 The liability limits specified by the contract are the minimum limits required, and any and all additional limits provided to the Contractor will be available on an excess, umbrella or other basis, to the Additional Insured for any and all covered claims.

§ 11.1.8.9 The insurance and insurance limits required herein shall not be deemed as a limitation on the Contractor's liability with regard to the indemnities granted to the Owner under the contract.

§ 11.2 Owner's Liability Insurance: The Owner will be responsible for maintaining its own liability insurance or self-insurance program and, at its option, may purchase and maintain such insurance as will protect the Owner against claims which may arise from operations under the Contract.

§ 11.3 Property Insurance

§ 11.3.1 Builder's Risk – By Contractor

The Contractor shall be responsible for providing and maintaining "All Risk" or equivalent Builder's Risk policy insuring the interest of the Owner, Contractor, and any tier of Subcontractor. Coverage on an "All Risk" or equivalent basis shall include the perils of flood, earthquake and pollution cleanup expense. Builder's Risk limit of

liability shall be equal to the amount of the contract. Any deductible shall be the sole responsibility of the Contractor and shall not exceed \$10,000 without the written approval of the Owner.

- .1 The Contractor shall be responsible for providing and maintaining "All Risk" or equivalent Builder's Risk policy insuring the interest of the Owner, Contractor, and any tier of Subcontractor. Coverage on an "All Risk" or equivalent basis shall include the perils of flood, earthquake and pollution cleanup expense. Builder's Risk limit of liability shall be equal to the amount of the contract. Any deductible shall be the sole responsibility of the Contractor and shall not exceed \$10,000 without the written approval of the Owner
- .2 Any property not covered by the Builder's Risk policy, such as the Contractor's or any tier of Subcontractor's licensed motor vehicles or personal property, including job trailers, machinery, tools, equipment and property of a similar nature not destined to become a part of the project, shall be the responsibility of the Contractor or Subcontractor at any tier, and such person or organization may self-insure or provide other insurance at its option for the same the Contractor shall be responsible for providing and maintaining "All Risk" or equivalent Builder's Risk policy insuring the interest of the Owner, Contractor, and any tier of Subcontractor.
- .3 Waiver of Liability: Absent Owner or Architect sole negligence or breach of specific Contractual duty specifically and logically related to the damage or loss, the Owner or Architect will not be responsible for loss or damage to property of any kind owned, borrowed, rented or leased by the Contractor, Subcontractors of all tiers and/or the Contractor's/Subcontractors employees, servants or agents.
- .4 Waivers of Subrogation: The Owner and Contractor waive all rights against (1) each other and any of their Subcontractors of all tiers and (2) the Architect, and the Architect's Subcontractors of all tiers for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to the provisions of paragraph 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner or Contractor as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, and the Architect's Subcontractors of all tiers, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers 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.
- .5 All losses and claims shall be immediately reported to the Contractor, Owner and applicable insurance carrier, under loss notice procedures as directed by the Contractor.
- .6 Any loss insured under Section 11.3 is to be adjusted with the Contractor and made payable to the Contractor as trustee for all insured parties, as their interests may appear, subject to the requirements of any applicable mortgage clause. The Contractor shall pay the Owner a just share of any insurance moneys received, and by appropriate agreement, written where legally required for validity, shall require the Contractor to make just share payments to the Subcontractors and lower tiered Sub-Subcontractors in similar manner.
- .7 Partial occupancy or use shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise.
- .8 Boiler and Machinery Insurance. The Contractor shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owners, Contractor, Subcontractors and Sub-Subcontractors in the Work, and the Owner and Contractor shall be named insureds.
- .9 Loss of Use Insurance. The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused.

§ 11.4 Performance Bond and Payment Bond

§ 11.4.1 Unless otherwise exempted in these Contract Documents, the Contractor shall furnish a Performance Bond and a Labor and Material Payment Bond (individually a "Bond" and collectively "Bonds") to the Owner. The Performance Bond shall be in an amount equal to 100% of the full amount of the Contract sum as security for the faithful performance of the Contract, and the Labor and Material Payment Bond shall be in an amount equal to 100% of the full amount of the Contract sum as security for the payment of all persons performing labor and furnishing materials in connection with the Contract Documents. Such Bonds shall be on forms approved by or provided by the Owner and shall name the Owner as primary Oblige.

§ 11.4.2 The surety issuing the Bonds shall be satisfactory to the Owner, be licensed to issue Bonds in the State of

Minnesota, shall be rated by A.M. Best an A-(minus) or better, and shall be within the limit set by the Treasury Department as the net limit on any single risk for the surety, or if co-sureties are utilized, the amount of each Bond shall be within the total of such limits set for a surety and any such co-sureties. There shall be no affiliation between the Contractor and any bonding agencies or agent used.

§ 11.4.3 In the event of change orders that result in an increase in the Contract Sum, the penal sum of each Bond shall increase in the amount of such change in the Contract sum without obtaining the surety's consent up to a maximum of 10% of the penal sum. Any aggregate increase in the excess of 10% of the original penal sum shall require the surety's written consent. The Contractor shall be responsible for getting the consent and shall submit a copy of such consent to the Owner.

§ 11.4.4 If the Owner determines that the surety providing the bonds no longer meets the requirements of Section 11.4.2, the Contractor shall obtain an adequate replacement surety that will provide acceptable bonds in the same form and amount as the bonds issued by the original surety. The Contractor shall pay the premium(s) on such new Bond(s). The Contractor acknowledges that further payments to the Contractor may not be made until the new surety has been qualified and approved.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense. The costs of corrections include labor, material, equipment, safety precautions in accordance with the Contract Documents.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties or special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5. Notice of discovery and required correction may be given by either the Owner or the Architect.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed and accepted after Substantial Completion by the period of time between Substantial Completion and the actual completion and acceptance of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.2.6 The Contract Documents survive final payment and are applicable to the performance of all corrective work required, regardless of time.

§ 12.2.7 The obligation of the Contractor to perform corrective work shall survive final completion of the work and final payment under the Contract.

§ 12.2.8 The Owner does not waive any remedies for the cost of performing corrective work the Contractor neglects or refuses to perform in a timely manner.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made. If the Owner chooses to accept nonconforming work pursuant to this provision, then the Contractor shall warrant the accepted work for the period stated in Section 12.2 as amended. The adjusted Contract Sum, when determined after final payment, shall be reimbursed to the Owner by the Contractor.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The laws of the State of Minnesota shall govern the Contract and the venue for any claims or actions shall be Ramsey County, Minnesota.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 Not Used.

§ 13.3 Written Notice

See Section § 1.6.1 and §15.1.3 for Written Notice.

§ 13.4 Rights and Remedies

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

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

§ 13.5 Tests and Inspections

§ 13.5.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public

authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. And (2) tests, inspections, or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.1.1 The requirements of 13.5.1 may be superseded by the project General Requirements, and by project specifications providing for the Owner to obtain and pay for specific testing and special inspections. Tests and inspections otherwise required by codes, laws, ordinances, rules or regulations of any authority having jurisdiction over the project shall be provided and paid for by the Contractor using entities acceptable to said authority. The Contractor shall schedule all tests and inspections with the providing party so as not to delay the project.

§ 13.5.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If procedures for testing, inspection, or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.5.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.5.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.6 Not Used.

§ 13.7 Time Limits of Claims

See Section §15.1.2 for Time Limits on Claims.

§ 13.8 Assignment of Antitrust Claims

§ 13.8.1 The Contractor hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and materials purchased in connection with this order or Contract resulting from antitrust violations which arise under the antitrust laws of the State of Minnesota. In addition, Contractor warrants and represents that each of their first-tier suppliers and Subcontractors shall assign any and all such claims to the State of Minnesota. By signing the Solicitation, the Contractor agrees with the following statement:

- .1 I/We certify that we have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a solicitation response; that this solicitation response has been independently arrived at without collusion with any other vendor, competitor, or potential competitor; that this solicitation response has not been knowingly disclosed prior to the opening of solicitation responses of any other vendor or competitor; and that the above statement is accurate under penalty of perjury.

§ 13.9 Recycling

§ 13.9.1 In accord with the State of Minnesota's sustainability guidelines, it is in the best interest of the State that scrap, waste and demolished materials be recycled. All Contractors, to the extent commercially available, are required to recycle recyclable scrap materials generated on State of Minnesota building projects. A recycling plan may be required by the General Requirements and Specifications. If the Owner discovers that the Contractor is not utilizing commercially available recycling the project may be stopped until recycling provisions are implemented

by the Contractor. When waste and demolished materials contain or are suspected of containing legally defined hazardous compounds, legal and proper disposal by qualified and licensed personnel is required.

§ 13.10 Records

§ 13.10.1 The books, records, documents, bid preparation documents, and accounting procedures and practices of the Contractor and its employees, agent, or subcontractors relevant to the Contract must be made available to and subject to examination by the Owner, Legislative Auditor and/or the State Auditor for a minimum of six years after the end of the contract. The Contractor shall maintain all documentation, at its expense, in the event of a claim giving rise to a litigation hold order.

§ 13.11 Government Data Practices Act

§ 13.11.1 The Contractor and the Owner must comply with the Minnesota Government Data Practices Act, Minn. Statute Ch 13, as it applies to all data provided by the Owner, and as it applies to all data created collected, received, stored, used, maintained or disseminated by the Contractor under this Contract including the Contractor's contracts with subcontractors. The civil remedies of Minn. Statute 13.08 apply to the release of all data by either the Contractor or the Owner.

§ 13.11.2 If the Contractor receives a request to release data, the Contractor must immediately notify the Owner before releasing any data. The Owner will give the Contractor instructions concerning the release of the data to the requesting party.

§ 13.12 Labor and Wages Nondiscrimination

§ 13.12.1 The Contract shall conform with and agree to provisions of Minnesota Statutes section 181.59 that prohibits discrimination in the hiring of labor by reason of race, creed or color, which section is reproduced below:

§ 13.12.2 Discrimination

Discrimination on account of race creed or color is prohibited. Every contract for or on behalf of the State of Minnesota, or any county, city, town, township, school, school district, or any other district in the State, for materials, supplies or construction shall contain provisions by which the Contractor agrees:

- .1 That, in hiring of common or skilled labor for the performance of any work under any Contract, or any subcontract, no Contractor, Material Supplier, or Vendor shall, by reason of race, creed, or color discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;
- .2 That no Contractor, Material Supplier, or Vendor shall, in any manner, discriminate against or intimidate, or prevent the employment of any person or persons identified in the clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any Contract on account of race, creed, or color;
- .3 That a violation of this Section is a misdemeanor; and
- .4 That this Contract may be canceled or terminated by the State, county, city, town, school board, or any other person authorized to grant the Contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms and conditions of this Contract.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Not Used.
- .4 Not Used.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit, and costs incurred by reason of such termination, and damages.

§ 14.1.4 Not Used.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority.
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.
- .5 files a bankruptcy petition or has a bankruptcy action commenced against it that is not discharged within 30 days of commencement of same, makes an assignment for the benefit of its creditors, has a receiver appointed to manage the Contractor's assets or otherwise is becoming insolvent.
- .6 materially fails to comply with interim or final completion dates as required by the Contract Documents, or materially fails to comply with design requirements of the Contract Documents, or persistently fails to perform the work in accordance with the Contract Documents; or
- .7 fails to maintain the required insurance.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, the Owner may, by giving the Contractor and the Contractor's surety, if any, written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor.
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds the direct and indirect consequential costs of completing the Work, including but not limited to fees and charges of Architects, Engineers, Attorneys, other professionals and court costs, and other damages incurred by the Owner, such excess will be paid to the Contractor. If such costs and damages exceed such unpaid balance, the Contractor shall pay the difference to the Owner. Such costs incurred by the Owner will be approved as to reasonableness by the Owner, but when exercising any rights or remedies under Article 14, the Owner shall not be required to obtain the lowest price for the work performed. This obligation for payment shall survive termination of the Contract, final completion of work and final payment.

§ 14.2.5 If a court determines that the termination was not supported by at least one of the reasons stated in Section 14.2.1, the termination shall be deemed a termination for the Owner's convenience and be governed by Section 14.4.

§ 14.3 Suspension by the Owner for Convenience

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

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall not include profit. No adjustment shall be made to the extent.

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

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:

- .1 cease operations as directed by the Owner in the notice.
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination. The Contractor may not recover Overhead and Profit for Work not performed.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, extension of time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. Arbitration and Mediation mandated or otherwise required, as a method of dispute and/or claim resolution, wherever referenced in Article 15, do not apply to this Contract or any Contract with the State of Minnesota. This Article 15 is modified to exclude all references to arbitration and mediation and to substitute the following:

- .1 The Contractor and the State may exercise those legal remedies in District Court as may be available to them in connection with any dispute arising out of this agreement which cannot be settled by the parties.
- .2 In case any question, dispute or controversy arises between the Contractor and Owner, or Contractors separately employed by the State, such dispute or controversy shall be referred to the Commissioner of Administration or the Commissioner of Administration's designee.
- .3 The venue of any proceedings is herein agreed to be Ramsey County, State of Minnesota, unless otherwise specifically agreed.
- .4 The Contractor shall carry on the work and maintain the progress schedule during any proceedings or disputes, unless otherwise instructed by the Owner in writing.

This does not prohibit the parties, when mutually agreed upon as a means to resolve a claim dispute, to reinstate arbitration or mediation by a supplemental agreement to this contract.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case, not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Architect. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims not initiated by the Contractor within 21 days after occurrence of the event giving rise to such claim or within 21 days after the Contractor first recognizes the condition giving rise to the claim, are waived.

All notice of claims must be supported by documents supporting the claim/s.

1. An "invoice" or application for payment is not a notice of claim for the purposes of Section 15.1.3 nor for purposes of Minnesota Statutes 16A.124.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first

discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Owner's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Owner.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. **All notice of claims must be supported by documents supporting the claim/s.**

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. All notice of claims must be supported by documents supporting the claim/s.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Not Used.

§ 15.1.8 Claims for Concealed or Unknown Conditions

If conditions are encountered at the site which are (1) subsurface or otherwise fully concealed physical conditions which differ materially from those affirmatively indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that could not have been anticipated and Documents (3) are not observable prior to bidding or inferable by the type of construction, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. If notice is not given by the Contractor within 21 days after first observance of the condition, all claims by the contractor that arise from the which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract condition are waived. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the conditions encountered are materially different, the Contract Sum and Contract Time shall be equitably adjusted, but if the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Section 15.2. All notice of claims must be supported by documents supporting the claim/s.

§ 15.2 Resolution of Claims and Disputes

§ 15.2.1 Claims, disputes and other matters in question between the Contractor and the Owner relating to the execution or progress of the work or interpretation of the Contract Documents, along with supporting documents, shall be referred initially to the Architect for decision which the Architect will render in writing within a reasonable time. The Contractor shall promptly furnish all information requested by the Architect so the Architect can make an informed decision. The Architect's decision shall be binding but does not abridge any legal remedies afforded the parties under the Contract Sections 15.2.9 and 15.2.10.

§ 15.2.2 Not Used.

§ 15.2.3 Not Used.

§ 15.2.4 Not Used.

§ 15.2.5 Not Used.

§ 15.2.6 Not Used.

§ 15.2.6.1 Not Used.

§ 15.2.7 Not Used.

§ 15.2.8 Not Used.

§ 15.2.9 Arbitration and Mediation as a method of dispute resolution, wherever referenced in Article 15 or elsewhere in the Contract Documents, do not apply to this Contract. Any unresolved issue, dispute or controversy arising between the Contractor and Owner, Architects, or Contractors separately employed by the Owner shall first be referred to the Commissioner of Administration or its designated representative.

§ 15.2.10 The Contractor and Owner may exercise those legal remedies in District Court as may be available to them in connection with any dispute arising out of this agreement which cannot be settled by the parties subject to the conditions in Section 13.7. The venue of any proceedings shall be Ramsey County, State of Minnesota, unless otherwise agreed in writing. The Contractor and Subcontractors shall carry on the work and maintain the progress schedule during any proceedings, unless otherwise instructed by the Owner in writing.

§ 15.3 Mediation Not Used.

§ 15.3.1 Not Used.

§ 15.3.2 Not Used.

§ 15.3.3 Not Used.

§ 15.3.4 Not Used.

§ 15.4 Arbitration. Not Used.

§ 15.4.1 Not Used.

§ 15.4.1.1 Not Used.

§ 15.4.2 Not Used.

§ 15.4.3 Not Used.

§ 15.4.4 Consolidation or Joinder. Not Used.

§ 15.4.4.1 Not Used.

§ 15.4.4.2 Not Used.

§ 15.4.4.3 Not Used.

END OF DOCUMENT

Additions and Deletions Report for AIA® Document A201® – 2017

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Changes to original AIA text

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MnDOT Projects (new) Morris Maintenance Facility - Mill & Overlay Paving

610 Highway 9

Morris, MN 56267

Project ID: TB 90820, FY PUMA: 25-154128

State of Minnesota, Department of Transportation

395 John Ireland Boulevard

St. Paul, MN 55155

TABLE OF MnDOT Building Services Section

395 John Ireland Boulevard, Mailstop 715

St. Paul, MN 55155

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ARTICLE 1 GENERAL PROVISIONS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the "Agreement") and (hereinafter Contract Documents or Agreement) consist of the Agreement-Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties; (2) a Change Order; (3) a Construction Change Directive; or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements between the Owner and Contractor, the Payment and Performance Bond, the Corporate Acknowledgment or Individual and Co-partnership Acknowledgment, or Limited Liability Acknowledgment, the General, Supplementary and Special Conditions of the Contract, drawings, specifications, bidding documents, addenda, or proposal or portions of addenda relating to bidding or proposal requirements, other documents listed in the Agreement, and Modifications issued after execution of the Contract.

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1. For purposes of this document, the term "Architect" shall mean "Architect or Engineer of Record."
2. For purposes of this document the term "Change Order" shall be defined as "Supplemental Agreement."

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a ~~Modification~~ Supplemental Agreement. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

~~§ 1.1.8 Initial Decision-Maker~~ 1.1.7.1. The Project Manual is a volume assembled for the Work which includes bidding requirements, sample forms, General Conditions of the Contract and Specifications or other Instruments of Service.

§ 1.1.8 Initial Decision-Maker - Not Used.

~~The Initial Decision-Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision-Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.~~

§ 1.1.9 Bidding Documents

The Bidding Documents are the advertisement for bids, the instructions to bidders, sample forms, the Contractor's bid and addenda relating to any of these.

§ 1.1.10 Addendum or Addenda

The addendum or addenda are any written changes, bulletins, revisions or clarifications of the Contract Documents which have been duly issued by the Architect to prospective bidders prior to the time of the Owner receiving bid proposals.

§ 1.1.11 Modification

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A Modification is (1) a Change Order (Supplemental Agreement), (2) a Construction Change Directive, (3) or a written order for a change in the work issued by the Architect and approved by Owner, pursuant to Article 7 or a contract shall be documented by Change Order (Supplemental Agreement) signed by Owner and Contractor. No payment for a change will be made until the Change Order (Supplemental Agreement) is fully executed (signed by Contractor, Architect and Owner).

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. In the event of an inconsistency between the drawings and specifications, or within either, where the inconsistency is not clarified by addendum, the better quality or greater quantity of work shall be required as determined by the Architect. Addenda and modifications of the Contract Documents, as defined in Section 1.1.10 and 1.1.11 shall take precedence over the original Contract Documents.

§ 1.5.1 The Architect, any and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common-law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors,

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Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be considered as publication in derogation of the Architect's or Architect-in-Consultant's confidential rights in all documents produced for the State become the property of the State and the State therefore maintains any copyright on these documents. The Contract Documents, in whole or in part, and copies thereof, are to be used by the Contractor only in respect to this project and shall not be used by the Contractor for any other purpose.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission. If a method for electronic transmission is set forth in the Agreement, Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at or sent by registered or certified mail or by courier service providing proof of delivery to the last business address known to the party giving notice. Normal communication between parties may be by US Mail, email or fax. An invoice or application for payment are not a notice of claim for the purposes of Section 15.1.3 nor for purposes of Minnesota Statutes Section 16A.124.

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§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

The parties shall agree upon written protocols governing the transmission and use of, and reliance on, Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E2031m-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

Any use of, or reliance on, all or a portion of a building information model without agreement to written protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E2031m-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202m-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 — OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanical lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, tentatively referred to as the site, and the Owner's interest therein.

§ 2.1.3 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner

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provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contractor is entitled to receive under the Contract or (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment in full of (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest provided in the Contract Documents. § 1.9 Project Management Software

The Owner may, at its sole option, direct the Architect, Construction Manager, Contractor (as applicable), and/or other Project participants to utilize the internet-based Project Management Software selected by the Owner. The functionality of this software may include, but is not limited to, the processing of the Plan, Reviews, Purchase Orders, Change Orders, Payment Applications, Requests for Information, and Document and Schedule Management related to the Project. If the Owner chooses to utilize Project Management Software selected by the Owner, the Owner will provide or arrange for a login license for the applicable parties, at no cost to the applicable parties. The Owner will provide or arrange for initial software training to the applicable parties. Except for licenses and initial training, the Owner assumes no responsibility for any real or potential costs associated with the use of the software by the applicable parties.

ARTICLE 2 — OWNER

§ 2.1 General

§ 2.1.1 The terms "Owner", "State", or "State of Minnesota" wherever they appear in the Contract Documents is the State of Minnesota. The authorized representative for the State of Minnesota is the Commissioner of Administration or his/her representative. Unless noted otherwise, the Commissioner's representative for the discharge of this Contract is the Division of Real Estate and Construction Services.

§ 2.1.2 Not Used.

§ 2.2.1.1 The Owner shall furnish evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor. Not Used.

§ 2.2.1 Not Used.

§ 2.2.2 Not Used.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sub-contractors and their employees. Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information, Not Used.

§ 2.2.4 The Contractor and State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13. Section 13.11 applies to this contract.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number (or, the word "Architect" or "Architect of Record" used in the Contract Documents shall mean Architect, Engineer,

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Designer, or other person or entity designated by the Owner to perform the Architect's role required by the Contract Documents.

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§ 2.3.3 If the employer terminates Architect of record for the ~~Architect terminates~~ Contract is no longer employed by the Owner ~~shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect~~ is otherwise unable to fulfill the required obligations of the Contract, the Owner shall designate a responsible party to fulfill the obligations under the Contract. The Owner reserves the right to designate itself.

§ 2.3.4 If required by the contract documents, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. ~~The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work and any other information it has available. Within 20 days of receipt, the Contractor is required to review any materials (such as surveys, soil tests, existing structures or conditions, locations of utilities, etc.) furnished by the Owner, and notify the Owner of the discovery of any inaccuracy. The furnishing of this material by the Owner shall not relieve the Contractor of its responsibilities under the Contract Documents. The Owner will provide any information required by the Contract Documents reasonably necessary to execute the work. The Owner makes no representations, warranties or guarantees as to the accuracy of information provided to the contractor.~~

§ 2.4 Owner's Right to Stop the Work 2.3.7 Security features of building plans, specifications, and drawings of state-owned facilities and non-state-owned facilities leased by the state are classified as nonpublic data when maintained by the Department of Administration and may be shared with anyone as needed to perform duties of the commissioner. However, consultants and contractors shall not release these plans and specifications to anyone without the Owner's approval.

§ 2.4 Owner's Right to Stop the Work

If the Contractor defaults or fails or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such ~~defect~~ failure or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such ~~defect or neglect~~ such action by the Owner and amounts charged to the Contractor ~~are both subject to prior approval of the Architect and the Architect may, pursuant to Section 2.5.1, withhold or nullify a Certificate for Payment in whole or in part to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. If payment and future payments are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the action of the Owner or the Architect or the amounts claimed to cover the difference, the Contractor may file a Claim pursuant to Article 15 deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. The amounts charged to the Contractor are subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. Article 15. Claims and Disputes does not apply to a request by the Owner that the Architect approve the use of the remedy provided in Section 2.4.~~

§ 2.6 Owner's Use of the Project

The Owner shall have the right to take possession of and use completed or partially completed portions of the work even though the time of completing the entire work, or such portion thereof, may not have expired, and such use shall not constitute acceptance thereof. The Owner's possession will not interfere with the Contractor's work. The Owner may engage in move-in activities such as furniture installation but will not physically occupy the work until such work is accepted by, and occupancy permit is issued by, the code jurisdiction of authority.

ARTICLE 3 CONTRACTOR

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§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents. The Contractor shall not perform any work unless and until the Contractor is in compliance with Article 3.1.1 Documents and Samples at the Site and Article 3.1.2 Shop Drawings, Product Data and Samples.

§ 3.1.3 The Contractor, when requested by the Architect, shall meet with the Architect and the Architect's representative and consultants, at reasonable times and furnish all information requested. The Contractor shall allow the Architect, the Architect's representatives and Owner consultants full access to the work to facilitate inspection of the Work. Neither the Owner nor Architect shall be liable to the Contractor for extra compensation or damages for interference or delays on account of any meeting, and the supply of information, tests or inspections or other tasks related to the project. The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Owner, the Architect, the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by the Owner, the Architect, or persons or entities other than the Contractor. Claims may be made in accordance with Article 15 of the AIA A201.

§ 3.2 Review of Work 3.1.4 The contractor shall employ and/or subcontract with subcontractors that are qualified to successfully complete the Work indicated in the Contract Documents and **Field Conditions by Contractor** within the contract time specified.

§ 3.2.1 ~~Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and conducted personal observations with requirements of the Contract Documents. 5. Additional Contractor Requirements.~~

The following are contract requirements that are submitted with the response to the State's Request For Bids solicitation and are requirements of this Contract:

1. **Construction Contractor Registration.** The contractor and subcontractors shall be registered with the Minnesota Department of Labor and Industry in accordance with Minnesota Statute § 326B.701. Per Minnesota Statute § 326B.701, unless exempt, any Person, as defined by Minn. Stat. § 181.723, subd. 1(a), who performs public or private construction services must register with the Department of Labor and Industry (DLI). Registration is required prior to receiving a contract award. For additional information, and to register, go to www.dli.mn.gov/register or call 651.284.5074.
 1. Building construction contractors, including independent contractors, subcontractors, and business entities providing public or private sector commercial or residential building construction or improvement services must be registered with the Department of Labor and Industry (DLI).
 2. The registration requirement does not apply to workers and businesses that are already licensed, registered, or certified with the Department of Labor and Industry (DLI), nor does it apply to employees.
 3. General or Prime Contractors will be able to verify that subcontractors are registered on the searchable Department of Labor and Industry Contractor Look-Up web site.
 4. The law provides for penalties for failure to register, hiring unregistered contractors, misclassifying employees, and coercing others to form a business entity.
 5. The contractor shall submit the certification and information contained in the Request For Bids (RFB) solicitation.
2. **Because the Contract Documents are complementary, the Contractor shall, before starting such portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work as well as the information furnished by the Owner pursuant to Section 2.2.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or**

§ 3.2.2 ~~Because the Contract Documents are complementary, the Contractor shall, before starting such portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work as well as the information furnished by the Owner pursuant to Section 2.2.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or~~

inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, omissions or inconsistencies discovered by or made known to the Contractor as a result of information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. **2. Responsible Contractor.** The contractor shall submit the certification and information contained in the Request For Bids (RFB) solicitation. A responsible contractor is defined as a contractor that conforms to the responsibility requirements in for its portion of the work on the project and verifies that it meets the minimum criteria as defined in Minn. Statute, § 16C-285 subd. 3 (1) through (7). (Minn. Statute § 16C-285 subd. 3). Signed verification was required in the solicitation response for all of the Contractor's first three subcontractors that the Contractor intended to retain for work on the project. If the prime contractor or any subcontractor retains additional subcontractors on the project, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit a supplemental verification list naming the added subcontractors which verifies the subcontractors have certified they are in compliance within 14 days of retaining the additional subcontractors. Upon request from the Owner, the prime contractor shall submit copies of the signed certifications of compliance from all subcontractors of any tier.

Workforce (Affirmative Action) Compliance. When the value of the contract is in excess of \$1,000,000 and the contractor has more than 40 employees, the State of Minnesota – Work Force Certification form is required. See the Request for Bids (RFB) solicitation for the form to use. Vendors are cautioned to read closely the section listed elsewhere in this specification titled: "Notice to Prime Contractors, Affirmative Action Certificate of Compliance." Division 00 73 35.

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Equal Pay Certification. When the value of the contract is in excess of \$200,000, the Contractor must obtain an Equal Pay Certificate from the Minnesota Department of Human Rights (MDHR) or claim an exemption. See the Request For Bids Solicitation for obtaining this certification prior to contract execution. A responder is exempt if it has not employed 40 or more full-time employees on any single working day during the previous 12 months in Minnesota or the state where it has its primary place of business. Please contact MDHR with questions at: 651-539-1095 (metro), 1-800-657-3704 (toll free), 711 or 1-800-627-3329 (MN Relay) or at compliance.MDHR@state.mn.us

Sub-contractor Reporting The State of Minnesota is committed to diversity and inclusion in public procurement. If the total value of the contract may exceed \$500,000, including all extension options, this must be tracked and reported on a quarterly basis, the amount spent with diverse small businesses. When this applies, free access to a portal for this purpose, and the requirement will continue as long as the contract is in effect.

§ 3.1.6 Eligible Targeted Group, Economically Disadvantaged, and Veteran Owned Small Businesses;

When a Targeted Group (TG), Economically Disadvantaged (ED), and Veteran-Owned (VO) Small Business (TG/ED/VO) subcontracting goal percentage is established in the Request For Bids solicitation the contractor shall make a good faith effort to utilize TG/ED/VO contractors, vendors and material suppliers and reach the established goal percent. Targeted Group, Economically Disadvantaged, and Veteran-Owned small businesses that can be used to meet subcontracting goals **MUST be certified by the Department of Administration, Office of State Procurement** at the time of the subcontractor's work on the construction project. Prime contractors are responsible for checking for eligible (TG/ED/VO) subcontractors listed on the MMD web site under NAICS Code 1510001 at <http://www.mmd.admin.state.mn.us/process/search> and must work with the Vendor Management Specialist at 651.296.2600 or MMD.TGBReporting@state.mn.us to ensure that proposed (TG/ED/VO) subcontractors are eligible. Prime contractors that are listed under NAICS Code 1500001 meet this subcontracting requirement just by being an eligible Targeted Group, Economically Disadvantaged, or Veteran-Owned Small Business. If an eligible TG/ED/VO business is bidding this project as a prime contractor and they choose to use other eligible TG/ED/VO businesses as subcontractors they should, for reporting purposes, list those subcontractors in their response. See the Request for Bids solicitation for additional information and for calculating the participation goal percentage.

§ 3.1.7 Requirements for Affirmative Action to Ensure Equal Employment Opportunity. (Work Force Participation Goals).

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The Request For Bids solicitation establishes and contains goals for minority and female workforce participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work.

These goals are applicable to all the contractor's construction work (whether or not it is State or State assisted work performed in the covered area). The goal percentage varies by the county the project work will occur. See the Request for Bid solicitation for percentages and additional affirmative action information. Failure to achieve the goals set in the Request for Bid solicitation may result in penalties.

3.21.2 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, regulations, codes, rules and regulations of any order of public authority, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require. **8. Certification of Nondiscrimination (in accordance with Minnesota Statute § 16C.053).**

The following term applies to any contract for which the value, including all extensions, is \$50,000 or more: Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the vendor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

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§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall make every effort to identify inconsistencies that may exist. Before starting each portion of the Work, carefully study and compare the Drawings, Specifications, Addenda and other Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 3.2.4 and shall observe and take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. The Contractor shall promptly report in writing to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as the request for information in such form as the Architect may require. The Architect will respond pursuant to Sections 4.2.1 and 4.2.12. The Contractor shall not start any portion of the Work if uncertain about the meaning or intent of the Contract Documents. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

3.2.4.3 If the Contractor believes that additional cost or time is involved because of clarifications or instructions from the Architect, the Contractor shall submit a request for information pursuant to Sections 3.2.2 and 3.2.3 and 3.2.5. The Contractor shall ~~submit~~ submit Claims/claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 and 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If

3.2.4 The Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for any damages or claims resulting from errors, inaccuracies or omissions in the Contract Documents for differences between the Contract Documents and the field conditions. The Contractor shall be responsible for the field conditions and shall be responsible for determining whether the field conditions are suitable for construction and for obtaining any and all necessary permits and approvals from the appropriate governmental agencies and authorities. The Contractor shall be responsible for accurately staking new work on the site and shall run the axis lines locating the work, establish correct datum points, and check each line and point on the site to ensure accuracy. All such lines and points shall be carefully preserved throughout construction. The Contractor shall (1) lay out all work from dimensions given on drawings, (2) take measurements and verify dimensions of existing or old work, if any, that affect the work or to

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which its work is to be fitted, (3) be responsible for the correctness of all measurements and shall verify all grades, lines, levels, elevations and dimensions shown on the drawings, and (4) report any errors or inconsistencies to the Architect prior to commencing work in the form as the Architect may require.

§ 3.2.5 No Change to the Contract Sum will be allowed on account of minor differences between actual field conditions and the Contract Documents. A minor difference is defined as a requirement in the contract documents that is not materially different from the actual field condition(s).

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be fully and solely responsible for the jobsite safety of ~~each~~ means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall propose alternative means, methods, techniques, sequences, or procedures. The

~~Architect/Owner shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using the alternative means, methods, techniques, sequences or procedures. The Contractor shall be responsible for damages arising from the Owner knowingly directing the Contractor to perform unsafe work. Nothing in this Section 3.3.1 shall be construed as limiting any claims the Owner or Contractor may have against the Architect for any such loss or damages.~~

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. Should the Contract Documents specifically require work to be performed beyond normal working hours, weekends or holidays, or should the completion time require work to be performed at said times, or should the Contractor elect to perform work at said times, with the permission of the Owner, any additional costs resulting from working at said times are the Contractor's sole responsibility.

§ 3.4.2 Except in the case of minor changes in the Work ~~approved~~ authorized by the Architect in accordance with Section 3.12.8 or ~~ordered by the Architect in accordance with Section 7.4~~, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive. By making a request for a substitution, the Contractor:

- §-1** Represents that the Contractor has personally investigated the proposed substitute item, material and/or process, and determined that it is equal or superior in all respects to that specified;
- 2** Represents that the Contractor will provide the same or better warranty for the substitute item than that provided with the specified item.

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- 3** Certifies that the cost data presented at the time of the request is complete and includes all related costs under this contract, including the Architect's review and redesign costs, and waives all other claims for additional costs related to the substitution that are not presented with the request;

- 4** Will coordinate the installation of the accepted substitute, implementing minor changes that are required for the work to be completed, in accordance with Section 7.4.

The above representations, certifications and agreement to coordinate do not obligate the Owner to consent to the substitution. Owner consent to the substitution does not constitute approval of the cost data submitted unless the cost data is specifically approved in writing.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other

persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. The Contractor shall, upon the Owner's request, remove any subcontractor that is unqualified, incompetent, disorderly, is performing work in an unsafe manner, or has failed to comply with the terms of any permit applicable to the Work or requirements applicable to the work.

§ 3.4.4 Hazardous Materials Banned

§ 3.4.4.1 Products Containing Certain Types of Polybrominated Diphenyl Ether Banned

Contractor certifies that it has read and will comply with Minn. Stat. §§ 325E.385 through 325E.388

<https://www.revisor.mn.gov/statutes/cite/325E.385>

<https://www.revisor.mn.gov/statutes/cite/325E.386>

<https://www.revisor.mn.gov/statutes/cite/325E.387>

<https://www.revisor.mn.gov/statutes/cite/325E.388>

§ 3.4.4.2 Asbestos Containing Materials Banned

No asbestos containing materials shall be brought on the project site, installed on the project, or used in the installation of Work for the project. See Section 10.3 - Hazardous Materials.

§ 3.4.4.3 Restrictions on Purchasing and use of Undiluted Coal Tar Sealers

Undiluted coal tar sealers will not be used on the project. Undiluted coal tar sealers are defined as any sealant containing coal tar that has not been mixed with asphalt and is intended for use on asphalt surfaces, including driveways and parking lots. See MN Statute 116.202 <https://www.revisor.mn.gov/statutes/cite/116.202>

§ 3.4.5 Recycling and Waste Management

For all State bonded construction, renovation, or demolition projects costing \$5,000,000.00 or greater that are located within 40 miles of a construction and demolition waste recycling facility, the Contractor and any subcontractors must divert from deposit in a landfill and must recycle at least 50 percent of the nonhazardous construction and demolition waste, measured by tonnage or volume, produced by the project or demonstrate that the waste was delivered to construction and demolition waste recycling facilities that maintain a 50 percent annual recycling rate. The Contractor shall submit a Waste Management and Recycling Program Plan for these projects to the Architect who shall review and submit it to the State for final approval. If the project plans and specifications for the project carry a more stringent requirement for recycling as it applies to quantity recycled, project cost, project funding source, or haul distance to a recycling facility, the more stringent requirement will apply.

§ 3.4.6 Build America, Buy America Act (BABA)

For projects that require and have Federal funds appropriated the contractor, subcontractor and material suppliers will abide by the Build America, Buy America Act as enacted as part of the Infrastructure Investment and Jobs Act on November 15, 2021. BABA requires that all iron, steel, manufactured products, and construction materials used in federally funded projects for infrastructure must be produced in the United States

§ 3.5 Warranty

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§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good specified or superior quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work, the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be

considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The warranty is not limited by the provisions of Section 12.2. Guarantees required by the Contract Documents shall not exclude or otherwise limit the Owner's possible remedies at law and shall not be construed as a waiver by the Owner of any other remedy.

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for all other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received. ~~separate codes of public authorities applicable to performance of the Work~~ **Note: If the project is utilizing Federal Funds, supporting documentation for compliance will be required in regard to the following: The Solid Waste Disposal Act, the Clean Air Act, and the Federal Water Pollution Control Act.**

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and ~~local orders of public authorities applicable to performance of the Work~~ **Note: If the project is utilizing Federal Funds, supporting documentation for compliance will be required in regard to the following: The Solid Waste Disposal Act, the Clean Air Act, and the Federal Water Pollution Control Act.**

§ 3.7.1.1 National Pollutant Discharge Elimination System

(NPDES) PERMIT: Pollution of natural resources of air, land and water by operations under this Contract shall be prevented, controlled, and abated in accordance with the rules, regulations, and standards adopted and established by the Minnesota Pollution Control Agency (MPCA), and the following:

1. By signing the Contract and completing the NPDES permit application, the Contractor is a co-permittee with the Owner to ensure compliance with the terms and conditions of the General Storm Water Permit for Construction Activity (MN R10001) and is responsible for those portions of the permit where the operator is referenced. This Permit establishes conditions for discharging storm water to waters of the State from construction activities disturbing one acre or more of total land area. A copy of the "General Permit Authorization to Discharge Storm Water Associated with a Construction Activity Under the National Pollutant Discharge Elimination System (NPDES)/State Disposal System Permit Program" is available at: <http://www.pca.state.mn.us/index.php/water/water-types-and-programs/stormwater/construction-stormwater/construction-stormwater.html>.

2. The Contractor shall apply and pay for the NPDES Permit on this Project. Payment for the application shall be incidental to the Contract and no direct compensation will be made. The Owner will provide the Contractor information on how to complete the Owner's portion.

3. No work which disturbs soil and/or work in waters of the state will be allowed on this Project until the NPDES Permit is in effect and the department has received the required documentation.

4. The Contractor shall be solely responsible for complying with the requirements listed in Part II.B and Part IV of the General Permit.

5. The Contractor shall be responsible for providing all inspections, documentation, record keeping, maintenance, remedial actions, and repairs required by the permit. All inspections, maintenance, and records required in the General Permit Paragraph IV.E, shall be the sole responsibility of the Contractor. The word "Permittee" in these referenced paragraphs shall mean "Contractor". Standard forms for logging all required inspection and maintenance activities shall be used by the Contractor. All inspection and maintenance forms used on this Project shall be turned over to the Architect/Engineer every two weeks for retention in accordance with the permit.

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6. The Contractor shall have all logs, documentation, inspection reports on site for the Architect/Engineer's review and shall post the permit and MPCA's letter of coverage on site. Meetings with the MPCA, Watershed District, WMO, or any local authority shall be attended by both the Architect/Engineer and the Contractor or their representatives; the Contractor and/or the Architect/Engineer shall contact the Owner prior to a scheduled meeting. No work required by said entities, and for which the Contractor would request additional compensation from the Owner, shall be started without approval from the Architect/Engineer. No work required by said entities and for which the changes will impact the design or requirements of the Contract Documents shall be started without approval from the Engineer.

7. The Contractor shall immediately notify the Engineer of any site visits by Local Permitting Authorities performed in accordance with Part V.H.

8. Emergency Best Management Practices must be enacted to help minimize turbidity of surface waters and relieve runoff from extreme weather events. It is required to notify the MPCA Regional contact person within 2 days of an uncontrolled storm water release.

9. The names and phone numbers of the MPCA Regional Contact personnel can be found at: <http://www.pca.state.mn.us/water/stormwater/stormwater.html>. The Contractor is reminded, during emergency situations involving uncontrolled storm water releases that the State Duty Office must be contacted immediately at 1-800-422-0798 or 1-651-649-5451.

10. The Contractor shall review and abide by the instructions contained in the permit package. The Contractor shall hold the Owner harmless for any fines or sanctions caused by the Contractor's actions or inactions regarding compliance with the permit or erosion control provisions of the Contract Documents.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. Except in those Municipalities that provide State-approved electrical inspection, all installation of electrical work shall be inspected by the Minnesota Board of Electricity. The Contractor shall procure and pay for all required electrical inspections.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction. This requirement does not relieve the Contractor of the responsibility for complying with the Contract Documents if the Contract Documents requirements exceed those of governing codes and regulations.

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those affirmatively indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that could not have been anticipated and which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, or (3) are not observable prior to bidding or inferable by the type of construction, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 421 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those affirmatively indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, or archaeological sites ~~not~~ indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the

Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15. Additionally, Contractors shall comply with Minnesota Statute 307.08.

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whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order and in accordance with Section 7.4. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall be assigned continuously to the work from Notice to Proceed until Final Completion. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. The Contractor shall communicate with the Owner through the Architect.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall ~~notify~~ furnish in writing to the Owner ~~and~~ through the Architect the name and qualifications of a proposed superintendent. ~~Within 14 days of receipt of the information, the Architect may notify the Contractor in writing. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect (4) has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time for review. Failure of the Architect to provide notice only within the 14-day period shall constitute notice of no reasonable objection.~~

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed, and the Contractor shall not change the Superintendent unless the Superintendent ceases to be employed by the Contractor."

3-10.1 The Contractor, no later than 10 days following the date the Contractor receives written notice to proceed from the Owner, shall submit to the Owner and Architect the Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the condition of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract time based on the time required for review of submittals that prepare and keep current for the Architect's approval. A schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Architect reasonable time to review submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 The schedule submitted by the Contractor shall have a completion date that corresponds to the completion date set forth in the Contract Documents. The Contractor is responsible for meeting this schedule without any adjustment to the Contract Sum, and by executing the Contract, the Contractor confirms that it is capable of properly completing the work within the completion date set forth in the Contract Documents.

§ 3.10.5 The Contractor must provide a minimum of five working days prior notice for specified testing or inspections that are to be performed by the Owner or Separate Contractors. Such testing and inspections shall be

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included in the Contractor's schedule."¹⁹

§ 3.10.6 If the Contractor, Architect, or Owner determines at any time, and for any reason, that the work has fallen fifteen (15) calendar days or ten (10) working days, behind the scheduled contract time, milestones date, phased work completion date, critical path date, or work indicated on the latest submitted schedule, the Contractor shall submit a Recovery Schedule within seven (7) calendar days of the Architect's written request or date the Contractor has knowledge that the work has fallen behind. The Contractor shall also submit a Recovery Plan indicating actions to be taken to recover the schedule. The Recovery Plan shall document the following:

.1 Description of work that is behind schedule

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2. Reason for work being behind schedule. If the Contractor claims that the delay is due to an event or condition that was outside the Contractor's ability to control, the Contractor shall include all documentation sufficient to justify the delay in accordance with Sections 8.3.1, 8.3.2, and 8.3.3.

3. Identification of all resources necessary to recover the schedule including all materials, labor, equipment and changes in operations.

4. Detail of all additional resources necessary to recover the schedule including, but not limited to additional quantities of manpower, overtime, increased number of hours per day, increased number of work shifts per day, increased number of work days per week.

6-2.40.2.5 Duration of time necessary to Recover the Schedule.

The Contractor shall perform/implement the Work in general accordance with the most recent schedules submitted to the Owner and Architect/Recovery Plan and recover the schedule at no cost to the owner and no additional contract time unless the claim is substantiated and approved in accordance with Section 8.3 and Article 15. A breach and default of contract shall result from the Contractor's failure to provide the Architect and Owner with the Recovery Plan and Recovery Schedule and/or failure to implement the Recovery Plan. Should the Contractor claim and provide sufficient documentation to substantiate that the delay was beyond the control of the Contractor the Owner shall reserve the right, in its best interest, to determine if the Recovery Plan and Schedule shall be implemented.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the way by which the Contractor proposes to conform to the information given in the design concept expressed in the Contract Documents for those portions of the Work for which the Contractor requires submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents including future and related work contained in the Contract Documents.

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§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of

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responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law but may hire professionals registered in the State of Minnesota when required to perform engineering or architectural services.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed/registered design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.14.1 The Contractor shall be responsible for all cutting, fitting, or patching required to complete the Work or to make the parts fit together properly. All areas requiring cutting, fitting, or patching, including, fastening, anchoring of all new and existing construction required to complete the work. All areas shall be restored to the condition existing prior to the cutting, fitting, or patching, including, fastening, anchoring, and fitting unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its/their Contractor's consent to cutting or otherwise altering the Work.

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§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor. The cost of cleanup performed by the Owner as a result of the Contractor's failure to provide the cleanup required by the Contract Documents, shall be deducted from the Contract Sum.

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress, whether tested, Architect, their consultants, other persons authorized by the Owner, and Authorities having jurisdiction over the work, access at all times to the project site and to Work in progress, in preparation or completed. The Contractor shall provide safe and proper facilities for such access and for testing, inspections and separate Contracts and shall secure and protect samples and testing equipment.

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

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§ 3.18.1 To the fullest extent permitted by law, and in accordance with Article 11, the Contractor shall indemnify and hold harmless the Owner, Owners' Representatives, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18.

ARTICLE 3.18.3 The obligations of the Contractor under this Section 3.18 shall not negate, abridge or reduce the liability of the Architect, the Architect's consultants and agents and employees of any of them.

ARTICLE 4 ARCHITECT

§ 4.1.1 The term or word "Architect" shall mean "Architect of Record" used in the Contract Documents shall mean Architect, Engineer, Designer, or other person or entity designated by the Owner pursuant to Section 3.1.2 and identified as such in the Agreement to perform the Architect's role required by the Contract Documents.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld. The Owner shall have sole authority to modify or extend the authority of the Architect.

§ 4.1.3 If the Architect of record for the Contract is no longer employed by the Owner or is otherwise unable to fulfill the required obligations of the Contract, the Owner shall designate a responsible party to fulfill the obligations under the Contract. The Owner reserves the right to designate itself.

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the Final Certificate for payment is due. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deficiencies and from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work. However, where the Architect observes deficiencies in the Work, or where the Architect observes the Contractor or Subcontractor failing to execute the work in accordance with the Contract Documents, the Architect shall, within 24 hours, notify the Contractor and Owner, in writing, of all such deficiencies. The Architect shall promptly notify the Owner when, in the Architect's opinion, the work should be stopped. Authority to stop the work shall rest with the Owner.

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The Owner and Contractor shall include and/or notify the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols. The Owner may communicate directly with the Contractor and Subcontractors and advise the Contractor and Architect of those communications.

§ 4.2.5 Based on the Architect's project site observations and evaluations of the Contractor's ~~Application for Payment~~ ~~Application for Payment~~, the Architect ~~will review and verify the amounts due the Contractor and will issue Certificates for Payment to such amounts~~ shall determine the amount owing to the Contractor and shall sign and issue the application and certificate for payment. Such signature and issuance shall constitute a representation by the Architect to the Owner that, in the Architect's professional opinion, the work has progressed to the point indicated, the quality of the work is in accordance with the Contract Documents, and the Contractor is entitled to payment in the amount certified. The Architect is responsible for deducting from the Contractor's Application for Payment the value of work not completed, not conforming to Contract Documents, or otherwise in dispute.

§ 4.2.6 The Architect has authority and responsibility to reject Work that does not conform to the Contract Documents. All such rejected work shall be removed from the site as soon as possible at no expense to the Owner. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.5.2 and 13.4.5.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy or completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may ~~also~~ authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; will receive, review and forward to the Owner, for the Owner's review and records, written warranties, operations and maintenance manuals, and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section ~~9.10~~ 9.10. The Architect will determine substantial completion date(s) in accordance with Article 9.8.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. ~~The Owner shall verify the Contractor's compliance with the duties, responsibilities and limitations of authority of the Project representatives and, if necessary, change or~~

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limitations of authority of the Project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. ~~When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor; will not show partiality to either; and will not be liable for results of interpretations or decisions rendered in good faith.~~ If a question, dispute or controversy between the Owner and Contractor arises out of a provision of the Contract Documents, or the Architect's interpretation thereof, for which a decision process is not otherwise prescribed in the Contract Documents and which the parties are unable to resolve through Change Order or otherwise, the Owner and the Contractor may exercise legal remedies available to them.

ARTICLE 5 SUBCONTRACTORS

§ 5.1.3 The Contractor shall include the following in any Contract with a Subcontractor: The attention of the Subcontractor is directed to Minnesota Statutes, Chapter 574, which requires the prime Contractor to file a payment and performance bond for the project with the State of Minnesota. Section 574.31 of that Chapter states the limit of time within which a subcontractor must take certain actions specified therein to preserve a claim for nonpayment against the payment bond surety. Subcontractors of any tier may not bring claims against the Owner.

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

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§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, ~~as owner of the project, shall not award the Work to the Owner and Architect of the project or entities proposed for each principal portion of the Work no later than ten (10) days following the date on which the Contractor received written notice to proceed from the Owner, shall furnish in writing to the Owner through the Architect the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) within 14 days of receipt of the information proposed for each principal portion of the Work. The Architect may resubmit within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.~~

§ 5.2.1.1 Responsible Contractor Requirement—See Section 3.1.5

Verification of Compliance with Minn. Stat. § 16C.285, Subd. 3. Signed verification was required in the solicitation response for all of the Contractor's first-tier subcontractors that the Contractor intended to retain for work on the project. If the prime contractor or any subcontractor retains additional subcontractors on the project, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit a supplemental verification list naming the added subcontractors which verifies the subcontractors have certified they are in compliance within 14 days of retaining the additional subcontractors. Upon request from the Owner, the prime contractor shall submit copies of the signed certifications of compliance from all subcontractors of any tier.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.3 Subcontractual—5.3 Sub contractual Relations

By appropriate agreement, written ~~agreements~~ here legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work ~~and~~ which the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the

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Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases or decreases in cost resulting from the suspension.

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§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedule shall then constitute the schedule to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including without limitation those stated in Article 2, this Article 6, and Articles 10, 11, and 12. Where multiple Contracts are in effect, or the Owner is utilizing its own forces for a portion of the Work, the Contractor's schedule and progress shall govern the work of other Contractors. The Contractor shall provide reasonable advance notice to other Contractors and the Owner regarding the schedule and Work to be performed by them. The other Contractors and/or the Owner's forces shall, after such notification, diligently proceed with their portion of the Work, including furnishing, installation, laying out or incorporation of Work, so as not to delay or impede the Contractor or its job progress.

§ 6.1.4 Not Used

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify in writing to the Architect of apparent discrepancies or defects in ~~the~~ such other construction or operations by the Owner or Separate Contractors that would render it unsuitable for such proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work so to report shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. ~~The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent, except as to defects not then reasonably discoverable.~~

§ 6.2.4 The Contractor shall promptly ~~remedy~~ correct damage ~~that~~ the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The ~~Owner's~~ Owner's own forces and each Separate Contractor shall have the same responsibilities for cutting and patching for their work as are described for the Contractor in Section 3.1.4.

~~§ 6.3 Owner's Right to Clean~~ 6.2.6 Claims and disputes between the Contractor and separate Contractors are subject to the provisions of Article 15. The Contractors will indemnify, defend and hold harmless the State, and any of its consultants or agents against any claims arising from any such dispute. Notwithstanding the foregoing, any legal representation to defend the Owner is subject to the approval of the Minnesota Attorney General, and, at the Owner's discretion, the Contractor will pay the attorney fees in lieu of defending the Owner.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will ~~allocate~~ assess the cost ~~among~~ those responsible.

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ARTICLE 7 CHANGES IN THE WORK

~~§ In Article 7, and throughout the contract documents, whenever the term "Change Order" is used, it shall be substituted with the term "Supplemental Agreement". This includes all companion documents utilized for construction contract administration.~~

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive ~~or~~, written approval from the Owner, or written order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Architect's Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor Contractor's written order for a change in the Work may be issued by the Architect alone along with written approval from the Owner; a written approval form from the Owner may be issued by the Owner alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly ~~with changes in the Work~~ unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

~~§ For purpose of this section a change order is termed a Supplemental Agreement (SA)~~

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

§ 7.2.2 Methods and requirements used in determining adjustments to the Contract Sum shall include those listed in Sections 7.3.4 through 7.3.9. The Contractor shall provide costs broken down into material and labor units with their respective unit costs in accordance with Section 7.3.4. The Owner shall not be obligated to make payment for change orders or be liable for late payments and interest on changes until the Contractor provides cost breakdowns as required by Section 7.3.4 and until a Change Order is executed.

§ 7.2.3 The Contract sum and Contract time shall be adjusted only by Change Order and the Contractor shall provide documentation of changes in accordance with Section 7.3.4. The Contractor shall itemize the costs of the changes and provide material and labor cost breakdowns to support the costs being claimed as a result of the change. The signature of the Contractor on the Change Order binds the Contractor to all terms thereof and shows the Contractor's complete agreement therewith.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract

Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly. The Contract Sum and Time can only be changed by a subsequent Change Order in accordance with Sections 7.2 and 7.3.4.

§ 7.3.2 A Construction Change Directive shall be used in the absence of ~~that~~ agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the change shall be incorporated into the contract by Change Order and the adjustment shall be based on one of the following methods:

1. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data provided in accordance with Sections 7.3.4, to permit evaluation;
2. Unit prices stated in the Contract Documents or subsequently agreed upon; or
3. ~~Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee.~~ For CM at Risk projects, Actual Costs of the work with a GMP and a fee in accordance with terms and conditions listed in section 7.3.4 and section 6 of the AIA133.
4. As provided in Section 7.3.4 through 7.3.9.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, ~~and also under Section 7.3.3.3, the Contractor shall keep and~~ present, in such form as the Architect/Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

1. ~~Costs of labor, including applicable payroll taxes~~ Labor costs are limited to the published and multiplied prevailing hourly basic rate or the negotiated hourly rate whichever is higher plus applicable multipliers for overtime, weekends and holidays, plus labor burden including: social security and unemployment insurance, fringe benefits required by agreement or custom, ~~workers' and workers' compensation insurance, and other employee costs approved by the architect,~~ and actual net payroll taxes. Except as provided for in Section 7.3.4.5, further markups to labor are not permitted. The Contractor and Sub-Contractor may express labor burden as a fixed percentage of the base hourly rate, however, such percentage is subject to audit and adjustment by the Owner or Owners Agent at any time. Labor hours may include only workers and working foreman directly involved in performing the Change Order work. If there is any overhead and profit included in field labor rates for sub-contractors or contractor then their shall be no change order markup percentage to labor as noted in point .3 below. In addition, there is to be no blended labor rates allowed on change orders.
2. Costs of materials, supplies; Net actual Contractor or Subcontractor costs of itemized materials including applicable sales taxes, supplies and equipment, including cost of transportation, whether incorporated or consumed;
3. Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or Subcontractor(s), the maximum rate is limited to 75% of the rental rate as set forth in Rental Rate Blue Book for Construction Equipment by Dataquest (latest edition) and shall include fuel and maintenance.
4. ~~Costs of bond premiums for all bonds and insurance, permit fees, and other fees or similar taxes.~~

~~directly related to the change, and, permit fees and taxes incurred by the contractor as a result of additional work that is approved by the owner. Payment for bond premium increases and additional permit fees will be made in accordance with Article 7.2 and upon presentation by the Contractor of proof of payment, or invoice related to the additional Work.~~

5. Direct costs for supplemental work, overhead and profit allowed. In addition to the costs provided for in Article 7.3.4, lines 2, 3, 4, Contractors and subcontractors may add up to 10% of the direct cost of their own labor, 5% of the direct cost of materials and equipment and 5% of the cost of subcontractors and sub-subcontractors. The total mark-up for OH&P for all tiers involved in a change to the contract sum shall not exceed 20 percent. OH&P may be less than the foregoing amounts depending on the nature, extent or complexity of the change when it is not commensurate with the responsibility and administration involved with the change, such as the Contractor merely processing a substantial Change Order to a Subcontractor or the Contractor processing a Change Order for additional equipment required by the change. Costs for material distribution, tools, consumables (including safety equipment), equipment fees, project difficulty, warranties, supervisory equipment, Change Order pricing and preparation or similar fees are defined as overhead costs.

6. Direct and Indirect Costs of supervision and field office personnel directly attributable to the change. Covered by Mark-up Percentages. As a further clarification, the agreed upon maximum markup percentages allowable are intended to cover the Contractor's and Sub-Contractors profit and all indirect costs associated with the Change Order Work. Items intended to be covered by the maximum markup percentages allowable include, but are not limited to: home office expenses, branch office and field office overhead expenses of any kind, officers, project management, safety director, superintendents, general foremen, non-working foremen, estimating, engineering, coordinating, expediting, purchasing, detailing, legal, accounting, data processing or other administrative expenses, shop drawings, permits, parking expenses, auto insurance and umbrella insurance, auto and pick-up truck costs, and warranty expense. The cost for the use of small tools is also to be considered covered by the maximum markup percentages allowable. Costs not included in this section requires prior approval by the Owner.

7. The documentation for adjustment to the Contract sum shall include the following for each Contractor and subcontractor of any tier and must be in form provided by or agreed to by the Owner.

- a. Name of Project.
- b. Name of the Contractor or Subcontractors.
- c. Name of material and equipment suppliers.
- d. A detailed description of the work performed and reference to proposal requests and Change Order Directives.
- e. Breakdown of labor and material costs are mandatory, including subcontractor and material supplier costs.
1. Labor costs shall include number of hours and hourly rates by trade and, based on certified payroll.
2. Material costs shown separately and individually by unit and unit price. Must include copies of materials invoices.
3. Calculation of the amount of OH&P added; see 7.3.4.5 for OH&P calculation requirements.
4. Signature of Contractor and involved subcontractors
5. Must be submitted on State Approved form and format.

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- 8.** The Owner may, at the Owner's sole discretion, waive the requirement for the cost breakdown of changes that total \$1,500.00 or less and utilize a lump sum.
- 9.** Deduct Change Order and Net Deduct Changes: The application of the mark-up percentage referenced in the preceding paragraphs will apply to both additive and deductive Change Orders. In the case of a deductive Change Order, the credit will be computed by applying the percentages as outlined in above so that a deductive Change Order would be computed in the same manner as an additive Change Order. In those instances where a change involves both additive and deductive Work, the additions and deductions will be netted, and the mark-up percentage adjustments will be applied to the net amount.
- 10.** Contingency: In no event will any lump sum or percentage amount for "contingency" be allowed to be added as a separate line item in Change Order estimates. Unknowns attributed to labor hours will be accounted for when estimating labor hours anticipated to perform the Work. Unknowns attribute to material scrap and waste will be estimated as part of material costs.
- 11.** Not Used.
- 12.** Accurate Change Order Pricing Information: Contractor (on behalf of itself and all of its Subcontractors of any tier) agrees that it is responsible for submitting accurate cost and pricing data to support its lump sum Change Order and/or cost-plus Change Order Proposals or other price adjustments under the Contract. Contractor further agrees to submit Change Order Proposals with cost and pricing data which is accurate, complete, current, and in accordance with the terms of the Contract and respect to pricing of the Change Orders. Contractor agrees that any "buy-out savings" on Change Orders shall accrue 100% to Owner. "Buy-out savings" are defined as any savings negotiated by the Contractor with a subcontractor or a material supplier after receiving approval of a Change Order amount that was designated to be paid to a specific Subcontractor or Supplier for the approved Change Order Work.
- 13.** Right to Verify Change Order Pricing Information: Contractor (on behalf of itself and all of its Subcontractors of any tier) agrees that any designated Owner's representative/auditor will have the right to examine (copy or scan) the records of the Contractor, Subcontractor or Sub-subcontractor's records (during the Contract period and up to 12 years after final payment is made on the Contract) to verify the accuracy and appropriateness of the pricing data used to price all Change Order Proposal and/or claims. Contractor agrees that if the Owner determines the cost and pricing data submitted (whether approved or not) was inaccurate, incomplete, not current, or not in compliance with the terms of the Contract regarding pricing of Change Orders, an appropriate Contract price adjustment will be made. Such post-approval Contract price adjustments will apply to all levels of Contractors and/or Subcontractors and to all types of Change Order Proposals specifically including lump sum Change Orders, unit price Change Orders, and cost-plus Change Orders.
- 14.** Requirements for Detailed Change Order Pricing Information: Contractor, agrees to provide and require all Subcontractors and Suppliers of any tier to provide a breakdown of allowable labor and labor burden cost information. This information will be used to evaluate the potential costs of labor and labor burden related to Change Order Work. It is intended that this information represent an accurate estimate of the Contractor's actual labor and labor burden cost components. This information is not intended to establish fixed billing or Change Order pricing labor rates. However, at the time Change Orders are priced, the submitted cost data for labor rates may be used to price Change Order work. The accuracy of any such agreed upon labor cost components used to price Change Orders will be subject to later review by the Owner. Approved Change Order amounts may be adjusted later to correct the impact of inaccurate labor cost components if the agreed upon labor cost components are determined to be inaccurate.
- 15.** For Construction Manager at Risk Change Order work only: Contractor shall not be entitled to any mark-up on the Cost of the Work attributed to a change in the Work (including an increase in the Contractor's Fee, if any) until the cumulative value of accepted Change Orders exceed 5% of the original Contract Sum. In addition, Contractor shall not be allowed to separately charge, as a Cost of the Work or otherwise, any cost identified in Section 7.3.4 above, as such costs are deemed to be covered by Contractor's Fee.

7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

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7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and a subsequent Change Order shall be recorded as a Change Order executed. A Construction Change Directive signed only by Owner and Architect constitutes a Change in the Contract which the Owner recognizes that the Contractor may be entitled to an adjustment to the Contract Sum if substantiated by the Contractor.

7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive amounts not in dispute for such changes in the Work shall be included in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination, accompanied by a Change Order indicating the parties' agreement with part or all of such costs. For any portion of such cost that remains in dispute, the Architect will make an interim determination for purposes of monthly certification for payment for those costs. That determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive. Not Used.

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. A subsequent Change Order shall be executed. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time. When a minor change involves an additional cost and adjustment in the Contract Sum or extension of the Contract Time, the change shall require an approval by the Owner and a change order shall be executed. Any change involving product substitutions shall be approved by the Architect and Owner.

ARTICLE 7.5 Owner's Right to Preform Changes in the Work

Notwithstanding Article 6, if the Owner does not agree to the Contractor's proposal to perform changes in the work, or if the Owner does not deem it advisable or expedient to proceed on the basis of the proposal, the Owner reserves the right to perform changes in the work with its own forces, or to contract with others to perform the changes.

ARTICLE 8 TIME

8.1.5 Where the performance of any act is directed, the time shall be computed so as to exclude the first and include the last day of the prescribed period. When the last day of the period falls on Saturday, Sunday or a legal holiday, that day shall be omitted from the computation.

§ 8.2 Progress and Completion

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8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the Work or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15. Extensions of Time will be considered and allowed only under the following conditions and/or circumstances, and only if the construction schedule is adversely affected by the change.

~~§ 8.3.3 The Contractor shall not be entitled to an extension of time for delays caused by the Contractor's failure to exercise reasonable care in the performance of the Work.~~ Only those conditions enumerated in Section 8.3.1 above, over which the Contractor has no control will be considered. The burden of proof for the change in time shall rest with the Contractor, including documentation that the condition was beyond its control and documentation as to the extent of the proposed extension.

2. A delay in the process of the work actually occurs as a result of one of the valid causes for extension.

3. An unusual delay in delivery occurs solely due to delay in common transport beyond the Contractor's control. An extension of time will not be granted for delays in delivery where the delivery was not properly scheduled or an order not placed at an appropriate time to allow delivery or an order is improperly placed.

4. With respect to a Change Order proposal for an extension of time due to climatic conditions, the parties shall consider the location of the site and the type of work affected, and shall recognize only unusually severe variations from average conditions. The Contractor must submit, with the request, local U.S. Weather Bureau climatological reports for the period involved plus a report indicating the average precipitation, temperature, wind velocity, etc. for the past 10 years from the nearest reporting station. Foul weather in itself will not be a valid reason for time extension. Requests for time extensions due to weather extremes will only be considered for the overall project based on analysis of the project schedule and will not be considered unless a substantial variation from seasonal average weather conditions occurred for a significant period of time and operations were necessarily affected. If the Contractor encounters unusually favorable weather subsequent to the issuance of a time extension for weather, the Contractor shall cooperate with the Owner and Architect to determine a time reduction based on the same analysis of the construction schedule.

5. For changes in the work which significantly affect the time and process of the entire work and where the anticipated delay period can be reasonably calculated at the time the change is requested, any time extension shall be made no later than when the change is authorized by the Owner, and such extension shall be for such reasonable time as the Architect may determine upon analysis of the project schedule. Where the period of delay cannot be reasonably determined at the time the Owner authorizes the change, the Contractor shall estimate the time period of delay and propose a potential mechanism for the Architect to identify a reasonable extension to Contract time. For changes in the work which do not affect the process of the entire work, the Owner reserves the right to grant a time extension only for area, phase, activity or element in the Work affected by the change. Any approved time extension shall be implemented by a Change Order.

6. A request for an extension of time made as a result of a labor dispute shall not exceed the actual period of the dispute, plus reasonable mobilization time. Any related, approved extension may be less than the period of dispute, depending on the actual effect the dispute had on the progress of the Work. Lockouts over which the Contractor has control will not be a valid reason for time extension.

7. No time extension will be granted for delays resulting from improper scheduling or failure to have shop drawings or samples submitted to the Architect in ample time for a review.

8. Delays caused by Subcontractors will be considered for time extension only under the same conditions defined above.

9. Except for changes in the work, all requests for extension of time shall be made in writing to the Architect not more than 21 calendar days after the beginning of the first occurrence of the delay. No request will be considered beyond the stated time without the consent of the Owner.

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10. No time extensions will be granted for delays from failure by the Contractor to schedule inspections, testing and the work of separate contracts.

11. Contractor "float" time built into the project schedule may be proportionately deducted from any approved extension.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

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

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment to the Architect, no later than ten (10) days following the date on which the Contractor received written notice to proceed from the Owner, a schedule of values allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and an Owner prescribed form, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect requires, such as copies of requisitions, and releases and waivers of liens from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by the Owner. Changes in the Work that have been properly authorized by the Owner shall not be included in the Change Order.

§ 9.3.1.2 Not Used.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay to Subcontractors or suppliers unless such Work has been performed by subcontractors as prescribed therein and in the Contract Documents and the Contractor shall bind all labor and material subcontractors to this requirement for this project and submit subcontractor payroll records as prescribed in Section 9.11 and the Contract Documents.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such

materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site. Should the Owner approve and pay for materials stored in an off-site location, the Contractor shall insure the off-site materials in such a manner as to protect the interest of the Owner against loss of stored materials and against loss of title to and ownership of stored materials.

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

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§ 9.4 ~~Certificates~~ Certifying Applications for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) ~~issue to the Owner a Certificate~~ certify the Application for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) ~~issue to the Owner a Certificate~~ certify the Application for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 ~~The issuance of a Certificate Certifying the Application for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, and that the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate Certifying an Application for Payment will not further constitute a representation that the Architect has (1) made substantive observations on-site; inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made a determination as to whether or not the Contractor has used money previously paid to the Contractor for the Work. The Contractor is entitled to payment in the amount certified. The Architect is responsible for deducting from the Contractor's Application for Payment, the value of the work not completed, not conforming to the Contract Documents, or otherwise in dispute. To the extent this Section 9.4.2 is inconsistent with Article 13, as amended herein, Article 13 shall govern and be incorporated by reference into this Section 9.4.2.~~

§ 9.5.1 The Architect may withhold a Certificate Application for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate certify an Application for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate certification on an Application for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate Application for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

1. defective Work not remedied;

2. third party claims filed or reasonable evidence indicating probable filing of such claims, claims, unless security acceptable to the Owner is provided by the Contractor;

3. failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

4. reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum; ~~Sum.~~

5. damage to the Owner or a Separate Contractor;

6. reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or

§ 9.5.2 ~~When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15. Not Used.~~

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 Not Used.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has Certified an Application for Payment, the Owner shall make payment in accordance with Minnesota Statutes 16A.124 which states that the Owner shall make payment within 30 days of receipt by the Owner of non-contested invoices. For this contract, an invoice is defined as an Application for Payment.

§ 9.6.1.1 Unless otherwise provided in the Contract Documents, the Owner shall follow the requirements of MN Statute 16.72 Subd. 1 and Subd. 2

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Subd. 1 Unless the terms of the contract provide otherwise, a public contracting agency shall make progress payments on a public contract for a public improvement monthly as the work progresses. Payments shall be based upon estimates of work completed as approved by the public contracting agency. A progress payment shall not be considered acceptance or approval of any work or waiver of any defects herein.

Subd. 2 A public contracting agency may reserve as retainage from any progress payment on a public contract for a public improvement an amount not to exceed five percent of the payment. A public contracting agency may reduce the amount of the retainage and may eliminate retainage on any monthly contract payment if, in the agency's opinion, the work is progressing satisfactorily.

§ 9.6.3 ~~When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.~~

§ 9.6.4 ~~If the Architect withholds certification for payment under Section 9.5.1.2, the Owner may, at its sole option, issue a joint check to the Contractor and to any Subcontractor or supplier to whom the Contractor is obligated to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall not make payment on its next Application for Payment. The public contracting agency must release all retainage no later than 60 days after substantial completion, subject to the terms of this subdivision. If the public contracting agency reduces the amount of retainage, the contractor must reduce retainage for any subcontractors at the same rate.~~

A contractor on a public contract for a public improvement must pay all remaining retainage to its subcontractors no later than ten days after receiving payment of retainage from the public contracting agency, unless there is a dispute about the work under a subcontract. If there is a dispute about the work under a subcontract, the contractor must pay out retainage to any subcontractor whose work is not involved in the dispute and must provide a written statement detailing the amount and reason for the withholding to the

affected subcontractor.

Upon written request of a subcontractor, the public contracting agency shall notify the subcontractor of a progress payment, retainage payment, or final payment made to the contractor.

After substantial completion, a public contracting agency may withhold no more than 250 percent of the cost to correct or complete work known at the time of substantial completion; and one percent of the value of the contract or \$500, whichever is greater, pending completion and submission of all final paperwork by the contractor or subcontractor. For purposes of this subdivision, "final paperwork" means documents required to fulfill contractual obligations, including, but not limited to, operation manuals, payroll documents for projects subject to prevailing wage requirements, and the withholding exemption certificate required by section 270C.66.

If the public contracting agency withholds payment under this paragraph, the public contracting agency must promptly provide a written statement detailing the amount and basis of withholding to the contractor. The public contracting agency and contractor must provide a copy of this statement to any subcontractor that requests it. Any amounts withheld under clause (1) must be paid within 60 days after completion of the work. Any amounts withheld under clause (2) must be paid within 60 days after submission of all final paperwork.

As used in this subdivision, "substantial completion" shall be determined as provided in section 541.051, subdivision 1, paragraph (a). For construction, reconstruction, or improvement of streets and highways, including bridges, substantial completion means the date when construction-related traffic devices and ongoing inspections are no longer required.

Withholding retainage for warranty work is prohibited. This provision does not waive any rights for warranty claims.

For a project funded with federal or state aid, the public contracting agency is not required to pay that portion of the contract funded by federal or state aid until the federal or state aid payments have been received.

Nothing in this section requires payment for a portion of a contract that is not complete or for which an invoice has not been submitted.

Also see MN Statute 15.73 Subd. 1, Subd. 2, Subd. 3, and Subd. 4.

Subd. 1. Contractor's option. At the option of the contractor, retainage shall be paid to the contractor in accordance with this section.

Subd. 2. Security. The contractor may deposit bonds or securities with the public contracting agency or in any bank or trust company to be held in lieu of cash retainage for the benefit of the public contracting agency. In that event the public agency shall reduce the retainage in an amount equal to the value of the bonds and securities and pay the amount of the reduction to the contractor. Interest on the bonds or securities shall be payable to the contractor as it accrues.

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Subd. 3. Approval required. Bonds and securities deposited or acquired in lieu of retainage, as permitted by subdivision 2, shall be of a character approved by the commissioner of management and budget, including but not limited to:

- (1) bills, certificates, notes or bonds of the United States;
- (2) other obligations of the United States or its agencies;
- (3) obligations of any corporation wholly owned by the federal government; or
- (4) indebtedness of the Federal National Mortgage Association.

Subd. 4. Recovery of additional costs. If the public agency incurs additional costs as a result of the exercise of the option described in this section, the agency may recover the costs from the contractor by reducing the final payment due under the contract. As work on the contract progresses, the agency shall, upon demand, inform the contractor of all accrued costs.

§ 9.6 Progress Payments. 1.2 If the Owner incurs additional cost as a result of the exercise of the option described above, the Owner may recover the costs from the Contractor by reducing the final payment due under the Contract. As work on the Contract progresses, the Owner shall, upon demand, inform the Contractor of all accrued costs.

§ 9.6.1.4 After the Architect has issued a Certificate for Payment, the Owner shall make payment to the Contractor within the time provided in the Contract Documents, and shall not notify the Architect 3. If, after the work provided for in the Contract shall have been fifty (50) percent completed, and performed to the satisfaction of the architect, the retainage may be reduced to zero (0) percent on payments for the remaining work. The reduction amount is determined at the sole discretion of the Owner and requires verification by the architect that the Contractor is properly and continuously expediting the work. The Owner reserves the right to retain all or part of retainage after substantial completion until all Contractual obligations are completed in accordance with Section 9.8.5. Partial use or occupancy of the project by the Owner is not sufficient cause for reduction of retainage.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven (10) days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.2.1 In accordance with Minnesota Statutes 16A.1245, the Contractor shall, within ten (10) days of receipt of a progress payment, pay all Subcontractors and suppliers having an interest in the Contract their prorated share of the payment for all undisputed services provided by the Subcontractors and suppliers.

§ 9.6.2.2 The Contractor may withhold as retainage from Subcontractor(s) progress payments an amount not to exceed five (5) percent of the payment. The Contractor shall reduce or eliminate the retainage for a Subcontractor in the same manner that the Owner reduces or eliminates the retainage for the Contractor.

§ 9.6.2.3 The enforcement of these conditions shall be the responsibility of the Subcontractor(s) working through the Contractor and the Contractor's surety. To facilitate the resolution of any problems relating to these provisions, the Contractor shall furnish the Subcontractor(s) with the name, address and telephone number of the Contractor's surety within ten (10) days of the date on which the Contractor signs a Contract with the Owner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and material and equipment suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to a Subcontractor or supplier, except as may otherwise be required by law, material and equipment supplier.

§ 9.6.5 The Contractor's payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 Payment by the Owner, based on an Application for Payment, or a Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

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§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum-

payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or violate any payment or ability to award of punitive damages against the Contractor for breach of the requirements of this provision. Not Used.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of slowdown, delay and shut-up plus interest as provided for in the Contract Documents. Not Used.

§ 9.8.1 Except as provided in § 9.8.6, Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.3 Upon receipt of a letter validating the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion. Claim of Substantial Completion and accompanying list, the Architect will perform site inspections to verify work completion and prepare a supplemental comprehensive list of items to be completed prior to Substantial Completion and prior to final payments.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall pay, at the sole discretion of the Owner, make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or defective, not in accordance with the requirements of the Contract Documents, or unsettled claims, and shall include the cost of any third party to finish incomplete, incorrect or defective work, and compensation and expenses of the Architect and Owner for work related thereto.

§ 9.9 Partial Occupancy or Use 9.8.6 The Owner shall release retainage no later than 60 days following the date of Substantial Completion, subject to the following conditions:

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete. provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for completion of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the

progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect. There is no dispute the construction is sufficiently completed so that the Owner or the Owner's representative can occupy or use the Work for the intended purpose.

2 Owner may withhold 2.50% of the cost to correct or complete any work known at the time of Substantial Completion. The Owner shall make payment to the Contractor for any amounts withheld within 60 days following completion and/or correction of the work.

3 Owner may withhold 1.0% of the value of the contract or \$500 whichever is greater pending completion and submission of all final paperwork by the Contractor or Subcontractor. The Owner shall make payment to the Contractor for any amounts withheld within 60 days following submission of all final paperwork. The term "final paperwork" means the documents required to fulfill contractual obligations, including, but not limited to, operations and maintenance (O & M) manuals, payroll documents for projects subject to prevailing wage requirements, and the Department of Revenue withholding certificates (IC -134) required by MN Statute §270.66.

4 If the Owner withholds payment pursuant to § 9.8.6.2 or § 9.8.6.3, the Owner shall promptly provide a written statement detailing the amount and basis for withholding to the Contractor. The Owner and contractor must provide a copy of this statement to any subcontractor that requests it.

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§ 9.8.7 For release of retainage only as provided under § 9.8.6 above, the date of Substantial Completion shall be determined by the date when construction is sufficiently completed so that the Owner or the Owner's representative can occupy or use the Work for the intended purpose. For construction, reconstruction, or improvement of streets, highways, including bridges, Substantial Completion means the date when construction-related traffic devices and ongoing inspections of the work are no longer required.

§ 9.8.8 The Contractor shall pay all remaining retainage to its Subcontractors no later than ten (10) days after receiving payment from the Owner unless there is a dispute about the Work under the subcontract. If there is a dispute about the Work under a subcontract, the contractor shall pay out retainage to any Subcontractor whose work is not involved in the dispute and shall provide a written statement detailing the amount and reason for withholding to the affected Subcontractor.

§ 9.8.9 Upon a written request of a Subcontractor, the Owner shall notify the Subcontractor of a progress payment, retainage payment, or final payment made to the Contractor.

§ 9.8.10 Should the Owner reduce the amount of retainage in accordance with § 9.6.1.1, the Contractor shall reduce retainage for any Subcontractors at the same rate.

§ 9.8.11 The Owner shall not withhold retainage for warranty work. The term "warranty work" means work that needs to be corrected but is not yet known at the time of substantial completion. This provision does not waive the Owner's rights for warranty claims.

§ 9.8.12 If the project is funded with federal or state aid, the Owner is not required to pay that portion of the contract funded by federal or state aid until the federal or state aid payments have been received.

§ 9.8.13 Nothing in this Section requires payment for a portion of the contract that is not complete or for which an invoice (payment application) has not been submitted.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner with the consent of Contractor's surety, if required, and consent of authorities having jurisdiction of the work, if required, use or occupy any portion of the work whether or not substantially complete in accord with Sections 9.8 and 2.5.1.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly

inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work. The Architect shall prepare an itemized list of incomplete and defective work based on the Architect's observations and inspections of the work.

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. ~~When and~~ when the Architect finds the Work acceptable under the Contract Documents and the Contractor fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. If the work is determined not to be complete, the Owner may deduct from the Contractor's final payment the cost of all subsequent inspections by the Architect.

§ 9.10.1.1 In the event incomplete, incorrect or defective work is not completed to the Owner's satisfaction within 30 calendar days of the Owner's ten-day notice to the Contractor that such Work is incomplete, incorrect or defective, the Owner may complete and correct work and deduct from the final payment any and all costs incurred by the Owner in completing such Work. At the sole discretion of the Owner, the Owner may agree to a longer or shorter period of time depending upon the extent of the work and/or material delivery times or availability or access to the work.

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§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) ~~documentation of any special warranties, such as manufacturer's warranties or specific subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and~~ ~~warranties of title, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner, and (6) Contractor has submitted all closest items required by the Contract Documents, including, but not limited to, Operations & Maintenance Manuals, As-Built drawings, and properly executed Department of Revenue IC-134 forms. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest or encumbrance.~~ If a lien claim security interest or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, ~~claim, security interest, or encumbrance~~ including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, ~~corrected, and accepted.~~ If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

2. failure of the Work to comply with the requirements of the Contract Documents.

ARTICLE 10 - PROTECTION OF PERSONS AND § 9.10.6 Liquid Damages

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§ 9.10.6.1 If provided for in the Supplementary Conditions, the Owner will be entitled to deduct liquidated damages from the final payment for failure of the Contractor to complete the projects by the date specified in the Contract. The Contractor will be assessed a charge in the amount specified, not as a penalty, but as liquidated damages to compensate the Owner for all additional costs incurred.

§ 9.10.6.2 The reasonableness of the charge is presumed, and the amount assessed is in addition to any other remedies available to the Owner. The charge will be assessed for each period the entire project is not suitable for use and/or occupancy measured from the first day after the date of Substantial Completion. No liquidated damages will accrue as a result of periods of authorized delays or suspension wherein each day of an authorized delay or suspension will excuse a day of the liquidated damage charge. The charge will be as scheduled in the Supplementary Conditions or Special Conditions.

§ 9.10.6.3 The Owner may waive any portion of or all of the accrued liquidated damages provided (a) the project is ready for use and/or occupancy by the Owner or (b) available for the next stage construction as determined by the Owner.

§ 9.10.6.4 The Owner does not waive any rights under the Contract by the collection of liquidated damages. Liquidated damages will continue to be charged to the Contractor or the Contractor's Surety in the event of Contractor default and Owner continuing or supplementing the work with its own forces or separate Contractors.

§ 9.11 PREVAILING WAGE REQUIREMENTS.

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Pursuant to Minnesota Statutes 177.41 to 177.44 and corresponding Minnesota Rules 5200.1000 to 5200.1120, this contract is subject to the prevailing wages as established by the Minnesota Department of Labor and Industry. Specifically, all contractors and subcontractors must pay all laborers and mechanics the established prevailing wages for work performed under the contract. Failure to comply with the aforementioned may result in civil or criminal penalties.

The Contractor and Subcontractor shall furnish to the Contracting Authority and the Project Owner all payrolls of all workers on the project, via E-mail as attachments, to the Email addresses provided within Section 00.7343 of this solicitation.

The Contractor and Subcontractor must submit the State of Minnesota Prevailing Wage Payroll Report and Statement of Compliance Form within 14 days after the end of each pay period. The forms are available on the Office of State Procurement (OSP) website at www.mmd.admin.state.mn.us/mmd/2000.htm. No other payroll forms will be accepted to meet this requirement.

The Contractor and Subcontractor must complete the Prevailing Wage Payroll Report in Microsoft Excel and the Statement of Compliance in an Adobe PDF. The subject line of the email must give the company name, contract/purchase order number, and pay period ending dates.

The Department of Labor and Industry has a web page with Frequently Asked Questions about prevailing wages at <http://www.dli.mn.gov/IS/PgPrevWage.asp>. For questions regarding the Prevailing Wage Laws, contact the Department of Labor and Industry at 651.284.5091.

PREVAILING WAGE PROJECT INSTRUCTIONS: Mn/DOT BUILDING CONSTRUCTION ONLY. To meet Minn. Stat. § 177.43 requirements, the Contractor and Subcontractor(s) shall submit payroll forms according to MnDOT Office of Maintenance, Building Services Section, Transportation Building, Mail Stop 715, 395 John Ireland Blvd., St. Paul, MN 55155-1899 requirements.

1. All Contractors shall submit a payroll statement to the Department of Transportation, Minn. Stat. § 177.44, subd. 7. The statement shall be submitted based on the Contractor's payment schedule. If a Contractor pays its employees biweekly, a payroll statement shall be submitted biweekly (MnDOT Contract Administration Manual, Section 320). All Contractors shall pay its employees at least once every 15 days on a date designated in advance by the employer (Minn. Stat. § 181.10).

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Each Statement submitted shall include all employees that performed work under the contract and provide at a minimum the following information (Minn. Rules 5200.1106, Subpart 10 and Minn. Stat. § 177.30):

- a. Contractor's name, address, and telephone number
 - a. State project number
 - a. Payroll report number
 - a. Project location
 - a. Workweek ending date
 - a. Name, social security number, and home address for each employee
 - a. Labor classification(s) and/or three-digit code for each employee
 - a. Hourly straight time and overtime wage rates paid to each employee
 - a. Daily and weekly hours worked in each labor classification, including overtime hours for each employee
 - a. Authorized legal deductions for each employee
 - a. Project gross amount, weekly gross amount and net wages.
2. Payroll records may be submitted in any form provided it includes all the information contained in Subpart A(1-11) of this section. However, Contractors needing a payroll form may utilize the "front side" of the U.S. Department of Labor's, WH-347 Payroll Form. This form is available by visiting the Labor Compliance website (www.dhs.gov/e-verify).
2. All payroll records must be accompanied with a completed and signed MnDOT 21658 – Statement of Compliance Form (Minn. Rules 5200.1106, Subpart 10).
2. The prime contractor is responsible for assuring that its payroll records and those of all subcontractors include all employees that performed work under this contract and accurately reflect the hours worked, regular and overtime rates of pay, and classification of work performed. (Minn. Stat. § 177.30(1)(2)(3)(4)).
2. The prime contractor is responsible to maintain all certified payroll records, including those of all subcontractors, throughout the course of a construction project and retain all records for a period of three years after the final contract voucher has been issued (Minn. Stat. § 177.30(4)).

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2. At the end of each pay period, each contractor shall provide every employee, in writing an accurate, detailed earnings statement. (Minn. Stat. § 181.032).
2. Upon request from the Minnesota Department of Labor and Industry (MN/DLI) or the Department of Transportation, the prime contractor shall promptly furnish copies of payroll records for its workers and those of all subcontractors, along with records, deemed appropriate by the requesting agency to determine compliance with these contract provisions. (Minn. Stat. § 177.44, subd. 7 and Minn. Rules 5200.1106, Subpart 10).
2. At the Department of Transportation's discretion, the project engineer may administer the submission of payroll records according to MnDOT's Payroll Maintenance Program. The guidelines for the implementation and administration of this program are outlined in the MnDOT Contract Administration Manual, Section A(4)(d).

2. If, after written notice, the prime contractor fails to submit its payroll reports and certification forms and those of any subcontractor, the Department of Transportation may implement the actions prescribed in State Funded Construction Contracts Special Provisions Division A – Labor, Section XVI, NON-COMPLIANCE AND ENFORCEMENT available on-line at: <http://www.dot.state.mn.us/const/labor/documents/contractdocs/specprovdvstate.pdf>.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable, and legally required, precautions for safety of, and shall provide reasonable, and legally required, protection to prevent damage, injury, or loss to

1. employees on the Work and other persons who may be affected thereby;
2. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, ~~a Subcontractor, or a Sub-subcontractor;~~ the Contractor's Subcontractors, or Sub-subcontractors; and

§ 10.2.3 The Contractor shall implement ~~every~~ Hot work. In addition to legally required and specified protection requirements, the Contractor is responsible for obtaining the Owner's Personnel/Property protection requirements from the facility in which the Contractor is performing the work and to implement a "hot work" safety program during the performance of their work. Hot work is defined as use of any equipment or tools capable of producing heat and ignition sources sufficient to start fires or ignite explosives. The local Facility Manager or Safety Director shall be informed in advance of any hot works necessary for the project. Safety precautions may include the removal or relocation of fire hazards, the provision of guards and fire blankets, coordination and verification of sprinkler systems and a fire watch that extends a minimum of 30 minutes past the conclusion of any hot work.

2. Safety Program: The Contractor shall implement and provide documentation on a Safety Program, such as AIAWR (A Workplace Accident Injury Reduction Act) program and:

1. Post Emergency phone numbers and procedures at the project site.
1. Provide and Post the Contractor's Safety Director's name and phone number
1. Provide and Post the Contractor's on-site safety representative's name, title and phone number
1. Conduct weekly Safety Meetings during the performance of the contract and allow owner's safety representatives to be present during the Safety Meetings.

The owner assumes no obligation or liability for safety on the project site or legal and insurance requirements involving safety.

§ 10.2.3 The Contractor shall erect, erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

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§ 10.2.3.1 In the event the owner, owner's representative, or architect observe an unsafe or hazardous condition on the project site, they shall have the right, but not an obligation, to stop work until such hazard or safety condition is remedied by the contractor.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel and comply with applicable regulations, laws pertaining to the storage, handling, use, transportation of explosives, hazardous materials or equipment.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. ~~The Contractor may make a claim for the cost to remedy the, except damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.~~

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous material ~~and/or substances~~. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and ~~notify the Owner and Architect of the condition~~ condition to the Owner and Architect.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be removed ~~harmless~~. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If neither the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contractor's reasonable additional costs of shutdown, delay, and start-up All Contractors shall fully comply with the requirements of Minnesota Statutes, Sections 326.70 through 326.81 and Minnesota Rules, parts 4620.3000 to 4620.3700.

§ 10.3.3 Any Contractor who performs any asbestos-related work or asbestos management activity shall be licensed or certified by the Minnesota Commissioner of Health under Minnesota Statutes Sections 326.70 through 326.81 and shall perform such work or activity in accordance with rules prescribed by the Minnesota Commissioner of Health related to asbestos abatement and asbestos management activity. Without waiver of other provisions in this Article 10.3, the Contractor is not responsible for damages, costs, fines or penalties caused by the handling of pre-existing hazardous materials and substances, except to the extent of the contractor's fault or negligence in the handling of such substances.

§ 10.3.4 If there is a Contract involving existing construction, the Owner will provide to the Contractor an Asbestos Survey Report identifying the building materials containing asbestos. The Contractor shall read and understand the content of the Report and examine the site and facilities as necessary to develop a full understanding of the extent, location, quantity, and conditions of any potential asbestos containing material identified in the Report.

§ 10.3.5 To the fullest extent permitted by law, the Owner shall indemnify, and hold harmless the Contractor, Subcontractor, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if, due to the material or substance, presents the risk of bodily injury or

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death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damages, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity. Where potentially hazardous substances have been partially removed from any work area, either prior to or in conjunction with, the construction required under the asbestos abatement Contract, the Owner will provide to the Contractor a copy of the drawings, specifications, or other Documents which indicate the extent of removal work anticipated to be performed prior to the work of the Contractor. The Contractor shall review and fully understand the extent of the provided Documents and shall make appropriate inspections to ascertain that potential asbestos containing materials have been removed from affected work areas or that they have been encapsulated and will not pose a hazard to employees on the job site.

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§ 10.3.4 The Owner and All Contractors shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances, and understand that where asbestos materials may have been partially or fully removed to facilitate the work of the Contractor, that such prior work is not a guarantee that all asbestos containing materials have been completely removed from all areas that might be affected by the work of the Contractor. The Contractor shall protect any asbestos materials that were left in place or that were not shown on the asbestos removal plans as scheduled to be removed.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles or (2) where the Contractor fails to perform the obligations under Section 10.3.4 except to the extent that the cost and expense are due to the Owner's fault or negligence, and understand that it may encounter potential asbestos containing materials that may impede the progress of construction, require changes in the project schedule or changes in the sequences of work, or result in delays in completion. If such an event occurs, the Owner will grant a reasonable Contract time extension, but only if the Contractor could not reasonably have foreseen such conditions and could not reasonably adjust its project schedule to avoid any delays in completion.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred. Not Used.

§ 10.3.9 The Owner shall not be responsible under Section 10.3 for materials and substances brought to the site by the Contractor or any tier of subcontractor unless such materials or substances were required by the Contract Documents.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents not commence work under the Contract until it has obtained all the insurance required by the specifications and such insurance has been approved by the State of Minnesota, Office of State Procurement. All policies and certificates shall provide that the policies shall remain in force and effect throughout the term of the contract. Contractor will submit all insurance requirements before beginning work. Contractor will list the State of Minnesota as an additional insured.

§ 11.1.2 Commercial General Liability

§ 11.1.2.1 Contractor shall maintain insurance to cover claims arising from operations under this Contract, whether such operations are by the Contractor, Subcontractor, Sub-Subcontractor or by anyone directly or indirectly.

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employed under this Contract. The Owner reserves the right to request additional insurance requirements. Unless otherwise specified, the insurance minimum limits of liability shall be as follows:

- \$2,000,000 — Per Occurrence
- \$2,000,000 — Annual Aggregate applying per project or location
- \$2,000,000 — Annual Aggregate applying to Products and Completed Operations
- ~~§ 44.4.2 The Contractor shall provide surety bonds of the types, for each, penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the project is located \$50,000 — Fire Damage (any one fire)~~
- \$5,000 — Medical Expenses (any one person per occurrence)

§ 11.1.2.2 The following coverages shall be included:

1. Professional Liability
1. Pollution Liability
1. Excess Umbrella Coverage
1. Premises and Operations Bodily Injury and Property Damage
1. Personal Injury & Advertising Injury
1. Products and Completed Operations Liability, to be maintained for at least 3 years after completion of the work under this contract.
1. Contractual Liability as provided in ISO form CG 00 01 12 04 13 or its equivalent.
1. Pollution Liability Insurance per Insurance Services Office (ISO) Commercial General Liability Coverage Form — CG 00 01 12 04 13 or equivalent
1. Independent Contractors — Let or Sublet work.
1. Waiver of Subrogation in favor of the State of Minnesota

Contractor agrees its coverage will not contain any restrictive endorsement(s) excluding or limiting Broad Form Property Damage (BFPD) or Explosion, Collapse, Underground (XCU).

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§ 11.1.2.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall execute a copy to be furnished to Officers and Employees of the State of Minnesota, the Architect and its agents shall be named as Additional Insureds, to the extent permitted by law, for claims arising out of the Contractor's negligence or the negligence of those for whom the Contractor is responsible for both ongoing and completed operations.

§ 11.1.3 Business Automobile Liability

§ 11.1.3.1 Contractor shall maintain insurance to cover liability arising out of the operations, use, or maintenance of all owned, non-owned and hired vehicle. The Owner reserves the right to request additional insurance requirements. Unless otherwise specified, the insurance limits shall be as follows:

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\$2,000,000 — Per Occurrence combined Single Limit Bodily Injury and Property Damage.

§ 11.1.4.4 ~~Notice of Cancellation or Expiration of Contractor's Required Insurance~~—Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been covered by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage. The following coverages shall be included:

1. Owned Automobiles
1. Hired Automobiles
1. Non-owned Automobiles
1. Waiver of subrogation in favor of the State of Minnesota

§ 11.1.4 Professional Liability — Design Errors and Omissions

§ 11.1.4.1 If the Owner specifies that the Contractor provide design and related services and, pursuant to Section 3.12.10, the Contractor provides such services with its employees, the Contractor shall maintain insurance covering negligent acts, errors or omissions, arising out of the performance of, or the failure to perform, such professional services included in the Contract Documents. Additionally, the Contractor shall require its Architectural and Engineering consultants and their subconsultants, if any, to maintain professional liability insurance. All such insurance shall be maintained for a minimum of five (5) years, if commercially available, otherwise a minimum of three (3) years following completion or earlier termination of the Project. Unless otherwise specified, the insurance minimum shall be as follows:

11.1.4.2 Minimum limit of liability of \$2,000,000 per claim and \$2,000,000 annual aggregate. Any deductible will be the sole responsibility of the Contractor and may not exceed \$50,000 without the written approval of the Owner.

§ 11.1.4.3 If the policy is claims made, it shall contain the following language:

Prior acts or retroactive date of coverage shall not be subsequent to the effective date of this Contract and Contractor shall maintain such insurance for a period of at least five (5) years, if commercially available, otherwise a minimum period of three (3) years, following completion or earlier termination of the Project. If such insurance is discontinued, extended reporting period coverage must be obtained to fulfill this requirement.

Evidence of insurance shall be filed with the Owner prior to start of design services if they are to be provided.

§ 44.2 Owner's Insurance 11.1.5 Workers' Compensation

§ 11.21.5.1 The Owner/Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the project is located to provide workers' compensation insurance for all employees and shall require any Subcontractor to provide workers' compensation insurance in accordance with the statutory requirements of the State of Minnesota and must include:

1. Part 2. Employers Liability including Stop Gap Liability for monopolistic states, at limits of not less than:
 - \$100,000 — Bodily Injury by disease per employee
 - \$500,000 — Bodily Injury by disease aggregate

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\$100,000 – Bodily Injury by accident

1. Coverage C: All States Coverage

1. If applicable, USL&H, Maritime, Voluntary and Foreign Coverage,
1. A waiver of subrogation in favor of the State of Minnesota, as Owner.

§ 11.21.5.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverage and in the amounts described in the Agreement or otherwise in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been used or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to purchase coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-Subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable to itself. Contractor is self-insured for its obligation under the Workers' Compensation Statutes in the jurisdiction where the project is located, a Certification of the Authority to Self-Insure such obligations shall be provided. Evidence of Subcontractor insurance shall be filed with the Contractor.

§ 11.1.6 Aviation and/or Marine Public Liability

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§ 11.1.6.1 Should aircraft or watercraft of any kind be used by the Contractor, any tier of Subcontractor or by anyone else on their behalf, Contractor or Subcontractor shall maintain or cause the operator of the aircraft/watercraft to maintain aircraft/watercraft public liability insurance including bodily injury, property damage, and passenger liability, as respects any aircraft/watercraft owned, used, operated or hired in connection with the work by the Contractor, Subcontractor or anyone else in the following limits:

§ 11.1.6.2 Aircraft/Watercraft Liability - \$10,000,000 Per Occurrence combined Single Limit Bodily Injury and Property Damage. Evidence of insurance shall be filed with the Owner prior to use of equipment on project.

§ 11.1.7 Umbrella or Excess Liability

§ 11.1.7.1 The Contractor shall provide Umbrella or Excess Liability Insurance with limits of not less than \$2,000,000 per occurrence and \$2,000,000 aggregate and with coverage at least as broad as the primary coverages of Commercial General Liability, Employer's Liability and Automobile Liability set forth in Article 11 or use Umbrella or Excess Liability Insurance to supplement the primary policy limits to satisfy the full policy limits required by the Contract. Officers and employees of the State of Minnesota, the Architect and its agents shall be named as Additional Insureds, to the extent permitted by law, for claims arising out of the Contractor's negligence or the negligence of those for whom the Contractor is responsible for both ongoing and completed operations.

§ 11.1.8 Additional Insurance Conditions

§ 11.1.8.1 Primary and Non-Contributory – Contractor's policy(ies) shall be primary and non-contributory insurance to any other valid and collectible insurance available to the State of Minnesota or self-insurance maintained by the State of Minnesota with respect to any claim arising out of this Contract.

§ 11.1.8.2 Contractor is responsible for payment of contract related insurance premiums and deductibles.

§ 11.21.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property

insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor, (1) the Contractor upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-Subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance. § 3 Insurance Companies must either (1) have an AM Best rating of A- (minus) and a Financial Size Category of VII or better and be authorized to do business in the State of Minnesota or (2) be domiciled in the State of Minnesota and have a Certificate of Authority/Compliance from the Minnesota Department of Commerce if they are not rated by AM Best.

§ 11.1.8.4 Insurance Companies waive their rights to assert the immunity of the State as a defense to any claims arising out of this Contract.

§ 11.1.8.5 The above establishes minimum insurance requirements. It is the sole responsibility of the Contractor to determine the need for and to procure additional insurance that may be needed in connection with this contract.

§ 11.1.8.6 Certificates of Insurance acceptable to the State of Minnesota shall be submitted prior to commencement of the work under this contract. If the Contractor receives a cancellation notice from an insurance carrier affording coverage herein, the Contractor agrees to notify the State of Minnesota within five (5) business days with a copy of the cancellation notice, unless the Contractor's policy(ies) contain a provision that coverage afforded under the policy(ies) will not be canceled without at least thirty (30) days advance written notice to the State of Minnesota.

§ 11.1.8.7 Coverage under the General Liability policy(ies) of the Contractor will be as broadly construed for the Owner as is available to the Contractor.

§ 11.1.8.8 The liability limits specified by the contract are the minimum limits required, and any and all additional limits provided to the Contractor will be available on an excess, umbrella or other basis, to the Additional Insured for any and all covered claims.

§ 11.1.8.9 The insurance and insurance limits required herein shall not be deemed as a limitation on the Contractor's liability with regard to the indemnities granted to the Owner under the contract.

§ 11.2 Owner's Liability Insurance: The Owner will be responsible for maintaining its own liability insurance or self-insurance program and, at its option, may purchase and maintain such insurance as will protect the Owner against claims which may arise from operations under the Contract.

§ 11.3 Waiver of Subrogation/Property Insurance

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other cause of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor or appropriate shall require similar written waiver to those of the individual and entities identified above from the Architect, Architect's consultants, Separate Contractors, sub-subcontractors and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit the waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise; (2) even though that person or entity did not pay the insurance premium directly or indirectly; or (3) whether or not the person or entity had an insurable interest in the damaged property. **Builder's Risk – By Contractor**

The Contractor shall be responsible for providing and maintaining "All Risk" or equivalent Builder's Risk policy insuring the interest of the Owner, Contractor, and any tier of Subcontractor. Coverage on an "All Risk" or equivalent basis shall include the perils of flood, earthquake and pollution cleanup expense. Builder's Risk limit of

liability shall be equal to the amount of the contract. Any deductible shall be the sole responsibility of the Contractor and shall not exceed \$10,000 without the written approval of the Owner.

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1. The Contractor shall be responsible for providing and maintaining "All Risk" or equivalent Builder's Risk policy insuring the interest of the Owner, Contractor, and any tier of Subcontractor. Coverage on an "All Risk" or equivalent basis shall include the perils of flood, earthquake and pollution cleanup expense. Builder's Risk limit of liability shall be equal to the amount of the contract. Any deductible shall be the sole responsibility of the Contractor and shall not exceed \$10,000 without the written approval of the Owner.

2. Any property not covered by the Builder's Risk policy, such as the Contractor's or any tier of Subcontractor's licensed motor vehicles or personal property, including job trailers, machinery, tools, equipment and property of a similar nature not destined to become a part of the project, shall be the responsibility of the Contractor or Subcontractor at any tier, and such person or organization may self-insure or provide other insurance at its option for the same. The Contractor shall be responsible for providing and maintaining "All Risk" or equivalent Builder's Risk policy insuring the interest of the Owner, Contractor, and any tier of Subcontractor.

3. Waiver of Liability: Absent Owner or Architect sole negligence or breach of specific Contractual duty specifically and logically related to the damage or loss, the Owner or Architect will not be responsible for loss or damage to property of any kind owned, borrowed, rented or leased by the Contractor. Subcontractors of all tiers and/or the Contractor's Subcontractors employees, servants or agents.

4. Waivers of Subrogation: The Owner and Contractor waive all rights against (1) each other and any of their Subcontractors of all tiers and (2) the Architect and the Architect's Subcontractors of all tiers for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to the provisions of paragraph 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner or Contractor as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, and the Architect's Subcontractors of all tiers, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers 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.

5. If, during the Project construction period, the Owner insures, proposes, real or personal or both, or adjusts to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property due to fire or other business interruption causes.

11.4.1 Adjustment and Settlement of Insured Losses. All losses and claims shall be immediately reported to the Contractor. Owner and applicable insurance carrier, under loss notice procedures as directed by the Contractor.

4. Any loss insured under Section 11.3 is to be adjusted with the Contractor and made payable to the Contractor as trustee for all insured parties, as their interests may appear, subject to the requirements of any applicable mortgage clause. The Contractor shall pay the Owner a just share of any insurance moneys received, and by appropriate agreement, written where legally required for validity, shall require the Contractor to make just share payments to the Subcontractors and lower tiered Sub-Subcontractors in similar manner.

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7. Partial occupancy or use shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise.

8. Boiler and Machinery Insurance. The Contractor shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owners, Contractor, Subcontractors and Sub-Subcontractors in the Work, and the Owner and Contractor shall be named insureds.

9. Loss of Use Insurance. The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused.

11.4 Performance Bond and Payment Bond

11.4.1. A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds; as their interests may appear, subject to requirements of any applicable mortgage clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their subcontractors and Sub-subcontractors in similar manner. Unless otherwise exempted in these Contract Documents, the Contractor shall furnish a Performance Bond and a Labor and Material Payment Bond individually a "Bond" and collectively "Bonds" to the Owner. The Performance Bond shall be in an amount equal to 100% of the full amount of the Contract sum as security for the faithful performance of the Contract, and the Labor and Material Payment Bond shall be in an amount equal to 100% of the full amount of the Contract sum as security for the payment of all persons performing labor and furnishing materials in connection with the Contract Documents. Such Bonds shall be on forms approved by or provided by the Owner and shall name the Owner as primary Obligor.

11.4.2. Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions.

Thereafter, if no other agreement is made on or before the date the Contractor does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work. The surety issuing the Bonds shall be satisfactory to the Owner, be licensed to issue Bonds in the State of Minnesota, shall be rated by A.M. Best an A-(minus) or better, and shall be within the limit set by the Treasury Department as the net limit on any single risk for the surety, or if co-sureties are utilized, the amount of each Bond shall be within the total of such limits set for a surety and any such co-sureties. There shall be no affiliation between the Contractor and any bonding agencies or agent used.

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11.4.3. In the event of change orders that result in an increase in the Contract Sum, the penal sum of each Bond shall increase in the amount of such change in the Contract sum without obtaining the surety's consent up to a maximum of 10% of the penal sum. Any aggregate increase in the excess of 10% of the original penal sum shall require the surety's written consent. The Contractor shall be responsible for getting the consent and shall submit a copy of such consent to the Owner.

11.4.4. If the Owner determines that the surety providing the bonds no longer meets the requirements of Section 11.4.2, the Contractor shall obtain an adequate replacement surety that will provide acceptable bonds in the same form and amount as the bonds issued by the original surety. The Contractor shall pay the premium(s) on such new Bond(s). The Contractor acknowledges that further payments to the Contractor may not be made until the new surety has been qualified and approved.

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ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, ~~the Contractor shall be entitled to equitable adjustment to the Contract Sum and Contract Time as may be appropriate costs of uncovering and replacement.~~ shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, ~~the such costs of uncovering the Work and the cost of correction shall be at the Contractor's expense,~~ unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense. The costs of corrections include labor, material, equipment, safety, precautions in accordance with the Contract Documents.

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, ~~or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents,~~ the Contractor shall correct it promptly after receipt of written notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section ~~2.5~~ 2.5. Notice of discovery and required correction may be given by either the Owner or the Architect.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed and accepted after Substantial Completion by the period of time between Substantial Completion and the actual completion and acceptance of that portion of the Work.

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§ 12.2.6 The Contract Documents survive final payment and are applicable to the performance of all corrective work required, regardless of time.

§ 12.2.7 The obligation of the Contractor to perform corrective work shall survive final completion of the work and final payment under the Contract.

§ 12.2.8 The Owner does not waive any remedies for the cost of performing corrective work the Contractor neglects or refuses to perform in a timely manner.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected affected whether or not final payment has been made. If the Owner chooses to accept nonconforming work pursuant to this provision, then the Contractor shall warrant the accepted final payment for the period stated in Section 12.2 as amended. The adjusted Contract Sum, when determined after final payment, shall be reimbursed to the Owner by the Contractor.

ARTICLE 13 MISCELLANEOUS PROVISIONS

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The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern. Section 16.4 Laws of the State of Minnesota shall govern the Contract and the venue for any claims or actions shall be Ramsey County, Minnesota.

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. ~~The Contractor shall execute all consents reasonably required to facilitate the assignment.~~ (Not Used)

§ 13.3 Written Notice

See Section § 1.6.1 and § 15.1.3 for Written Notice.

§ 13.4 Rights and Remedies

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

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

§ 13.5 Tests and Inspections

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§ 13.5.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded, ~~The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.~~ And (2) tests, inspections, or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.1.1 The requirements of 13.5.1 may be superseded by the project General Requirements, and by project specifications providing for the Owner to obtain and pay for specific testing and special inspections. Tests and inspections otherwise required by codes, laws, ordinances, rules or regulations of any authority having jurisdiction over the project shall be provided and paid for by the Contractor using entities acceptable to said authority. The Contractor shall schedule all tests and inspections with the providing party so as not to delay the project.

§ 13.4.5.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.5.3, shall be at the Owner's expense.

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§ 13.45.3 If procedures for testing, inspection, or approval under Sections 13.45.1 and 13.45.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.45.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.45.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.45.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 ~~Interest~~ **Not Used.**

~~Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~

§ 13.7 Time Limits of Claims

See Section §15.1.2 for Time Limits on Claims.

§ 13.8 Assignment of Antitrust Claims

§ 13.8.1 The Contractor hereby assigns to the State of Minnesota any and all claims for overcharges as to goods and materials purchased in connection with this order or Contract resulting from antitrust violations which arise under the antitrust laws of the State of Minnesota. In addition, Contractor warrants and represents that each of their first-tier suppliers and Subcontractors shall assign any and all such claims to the State of Minnesota. By signing the Solicitation, the Contractor agrees with the following statement:

1. I/We certify that we have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit a solicitation response; that this solicitation response has been independently arrived at without collusion with any other vendor, competitor, or potential competitor; that this solicitation response has not been knowingly disclosed prior to the opening of solicitation responses of any other vendor or competitor; and that the above statement is accurate under penalty of perjury.

§ 13.9 Recycling

§ 13.9.1 In accord with the State of Minnesota's sustainability guidelines, it is in the best interest of the State that scrap, waste and demolished materials be recycled. All Contractors, to the extent commercially available, are required to recycle recyclable scrap materials generated on State of Minnesota building projects. A recycling plan may be required by the General Requirements and Specifications. If the Owner discovers that the Contractor is not utilizing commercially available recycling the project may be stopped until recycling provisions are implemented by the Contractor. When waste and demolished material contain or are suspected of containing legally defined hazardous compounds, legal and proper disposal by qualified and licensed personnel is required.

§ 13.10 Records

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§ 13.10.1 The books, records, documents, bid preparation documents, and accounting procedures and practices of the Contractor and its employees, agent, or subcontractors relevant to the Contract must be made available to and subject to examination by the Owner, Legislative Auditor and/or the State Auditor for a minimum of six years after the end of the contract. The Contractor shall maintain all documentation, at its expense, in the event of a claim.

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giving rise to a litigation hold order.

§ 13.11 Government Data Practices Act

§ 13.11.1 The Contractor and the Owner must comply with the Minnesota Government Data Practices Act, Minn. Statute Ch. 13, as it applies to all data provided by the Owner, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by the Contractor under this Contract including the Contractor's contracts with subcontractors. The civil remedies of Minn. Statute 13.08 apply to the release of all data by either the Contractor or the Owner.

§ 13.11.2 If the Contractor receives a request to release data, the Contractor must immediately notify the Owner before releasing any data. The Owner will give the Contractor instructions concerning the release of the data to the requesting party.

§ 13.12 Labor and Wages Nondiscrimination

§ 13.12.1 The Contract shall conform with and agree to provisions of Minnesota Statutes section 181.59 that prohibits discrimination in the hiring of labor by reason of race, creed or color, which section is reproduced below:

§ 13.12.2 Discrimination

Discrimination on account of race, creed or color is prohibited. Every contract for or on behalf of the State of Minnesota, or any county, city, town, township, school, school district, or any other district in the State, for materials, supplies or construction shall contain provisions by which the Contractor agrees:

1. That, in hiring of common or skilled labor for the performance of any work under any Contract, or any subcontract, no Contractor, Material Supplier, or Vendor shall, by reason of race, creed, or color, discriminate against the person or persons who are citizens of the United States or resident aliens who are qualified and available to perform the work to which the employment relates;
2. That no Contractor, Material Supplier, or Vendor shall, in any manner, discriminate against or intimidate, or prevent the employment of any person or persons identified in the clause (1) of this section, or on being hired, prevent, or conspire to prevent, the person or persons from the performance of work under any Contract on account of race, creed, or color;
3. That a violation of this Section is a misdemeanor; and
4. That this Contract may be canceled or terminated by the State, county, city, town, school board, or any other person authorized to grant the Contracts for employment, and all money due, or to become due under the contract, may be forfeited for a second or any subsequent violation of the terms and conditions of this Contract.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

3. ~~Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents.~~ **Not Used.**
4. ~~The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2~~ **Not Used.**

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a

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Sub-subcontractor, or their agents or employees, or any other persons or entities performing portions of the Work, under direct or indirect contract with the Contractor, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination, and damages.

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§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work, because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3. Not Used.

2. fails to make payment to Subcontractors or suppliers for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

3. repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;

§ 14.2.3 When any of the reasons described in Section 14.2.1 exist and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, file a bankruptcy petition or has a bankruptcy action commenced against it that is not discharged within 30 days of commencement of same, make an assignment for the benefit of its creditors, has a receiver appointed to manage the Contractor's assets or otherwise is becoming insolvent.

6. materially fails to comply with interim or final completion dates as required by the Contract Documents, or materially fails to comply with design requirements of the Contract Documents, or persistently fails to perform the work in accordance with the Contract Documents; or

7. fails to maintain the required insurance.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, the Owner may, by giving the Contractor and the Contractor's surety, if any, written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

1. Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds the direct and indirect consequential costs of finishing completing the Work, including compensation for the Architect's services and expenses made necessary, but not limited to fees and charges of Architects, Engineers, Attorneys, other professionals and court costs, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the such unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker upon application and this. Such costs incurred by the Owner will be approved as to reasonableness by the Owner, but when exercising any rights or remedies under Article 14, the Owner shall not be required to obtain the lowest price for the work performed. This obligation for payment shall survive termination of the Contract, final completion of work and final payment.

§ 14.2.5 If a court determines that the termination was not supported by at least one of the reasons stated in Section 14.2.1, the termination shall be deemed a termination for the Owner's convenience and be governed by

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§ 14.3 Suspension by the Owner for Convenience

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption ~~as described in~~ Section 14.3.1. Adjustment of the Contract Sum shall not include profit. No adjustment shall be made to the extent.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:

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1. cease operations as directed by the Owner in the notices.

§ 14.4.3 In case of such termination for the Owner's convenience, the ~~Owner~~ Contractor shall pay the Contractor the amount entitled to receive payment for Work properly executed, and costs incurred by reason of such termination, including costs attributable to termination of Subcontractors, and the termination fee, if any, set forth in the Agreement. The Contractor may not recover Overhead and Profit for Work not performed.

ARTICLE 15 CLAIMS AND DISPUTES

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time extension of time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. ~~This Section does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.~~ Arbitration and Mediation mandated or otherwise required, as a method of dispute and/or claim resolution, wherever referenced in Article 15, do not apply to this Contract or any Contract with the State of Minnesota. This Article 15 is modified to exclude all references to arbitration and mediation and to substitute the following:

1. The Contractor and the State may exercise those legal remedies in District Court as may be available to them in connection with any dispute arising out of this agreement which cannot be settled by the parties,

2. In case any question, dispute or controversy arises between the Contractor and Owner, or Contractors, separately employed by the State, such dispute or controversy shall be referred to the Commissioner of Administration or the Commissioner of Administration's designee.

3. The venue of any proceedings is herein agreed to be Ramsey County, State of Minnesota, unless otherwise specifically agreed.

4. The Contractor shall carry on the work and maintain the progress schedule during any proceedings or disputes, unless otherwise instructed by the Owner in writing.

This does not prohibit the parties, when mutually agreed upon as a means to resolve a claim dispute, to reinstate arbitration or mediation by a supplemental agreement to this contract.

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker, Architect. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims not initiated by the Contractor within 21 days after occurrence of the event giving rise to such claim or within 21 days after the Contractor first recognizes the condition giving rise to the claim, are waived.

§ All notice of claims must be supported by documents supporting the claim/s.

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User Notes:

1. An "invoice" or application for payment is not a notice of claim for the purposes of Section 15.1.3 nor for purposes of Minnesota Statutes 16A.124.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. ~~In such event, no decision by the Initial Decision Maker is required.~~

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§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the ~~Initial Decision Maker's~~ Owner's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the ~~Initial Decision Maker~~ Owner.

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10-4.10.4. **All notice of claims must be supported by documents supporting the claim/s.**

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary. All notice of claims must be supported by documents supporting the claim/s.

§ 15.1.7 ~~Waiver of Claims for Consequential Damages~~ 15.1.7 Not Used.

~~The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes~~

- ~~1. damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management of employee productivity or of the services of such persons; and~~
- ~~2. damages incurred by the Contractor for principal of office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.~~

~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.~~

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker unless otherwise indicated in the "Agreement." Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and, within ten days of the receipt of a Claim, take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party; (2) reject the Claim in whole or in part; (3) approve the Claim; (4) suggest a compromise; or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim. If the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.1.8 Claims for Concealed or Unknown Conditions

If conditions are encountered at the site which are (1) subsurface or otherwise fully concealed physical conditions

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which differ materially from those affirmatively indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that could not have been anticipated and Documents (3) are not observable prior to bidding or inferable by the type of construction, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. If notice is not given by the Contractor within 21 days after first observance of the condition, all claims by the contractor that arise from the which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract condition are waived. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the conditions encountered are materially different, the Contract Sum and Contract Time shall be equitably adjusted, but if the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Section 15.2. All notice of claims must be supported by documents supporting the claim/s.

§ 15.2.3 In evaluating Resolution of Claims, the Initial Decision Maker may, but shall not be obligated to, consult with each party and receive information from either party or from persons with special knowledge or expertise who assist the Initial Decision Maker in rendering a decision. ~~The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense and Disputes~~

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either: (1) provide a response to the requested supporting data; (2) advise the Initial Decision Maker when the response or supporting data will be furnished; or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. The initial decision shall: (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect. If the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation or binding dispute resolution. Claims, disputes and other matters in question between the Contractor and the Owner relating to the execution or progress of the work or interpretation of the Contract Documents, along with supporting documents, shall be referred initially to the Architect for decision which the Architect will render in writing within a reasonable time. The Contractor shall promptly furnish all information requested by the Architect so the Architect can make an informed decision. The Architect's decision shall be binding but does not abridge any legal remedies afforded the parties under the Contract Sections 15.2.9 and 15.2.10.

§ 15.2.2 Not Used.

§ 15.2.6 ~~Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6-13 Not Used.~~

§ 15.2.4 Not Used.

§ 15.2.5 Not Used.

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§ 15.2.6 Not Used.

§ 15.2.6.1 ~~Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.~~Not Used.

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§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy. Not Used.

§ 15.2.8 Not Used.

§ 15.2.9 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3.1 Mediation
§ 15.3.1.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5 and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution. Arbitration and Mediation as a method of dispute resolution, wherever referenced in Article 15 or elsewhere in the Contract Documents, do not apply to this Contract. Any unresolved issue, dispute or controversy arising between the Contractor and Owner, Architects, or Contractors separately employed by the Owner shall first be referred to the Commissioner of Administration or its designated representative.

§ 15.3.2.10 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless any of the parties opt out for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings. Contractor and Owner may exercise those legal remedies in District Court as may be available to them in connection with any dispute arising out of this agreement which cannot be settled by the parties subject to the conditions in Section 13.7. The venue of any proceedings shall be Ramsey County, State of Minnesota, unless otherwise agreed in writing. The Contractor and Subcontractors shall carry on the work and maintain the progress schedule during any proceedings, unless otherwise instructed by the Owner in writing.

§ 15.3 Mediation Not Used.

§ 15.3.1 Not Used.

§ 15.3.2 Not Used.

§ 15.3.3 Either party may, within 20 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings, with respect to the initial decision. Not Used.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. Not Used.

§ 15.4 Arbitration, Not Used.

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. Not Used.

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§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim. 15.4.1.1 Not Used.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Not Used.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof. Not Used.

§ 15.4.4 Consolidation or Joinder, Not Used.

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrators. (c) Not Used.

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent. Not Used.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement. Not Used.

END OF DOCUMENT

Variable Information

PAGE 1

MnDOT Golden Valley Truck Station - Fuel Island Replacement

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Certification of Document's Authenticity
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I, Jon Neubauer, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 07:51:33 CDT on 04/04/2025 under Order No. 20240039257 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2017, General Conditions of the Contract for Construction, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

SECTION 00 7303 – SUPPLEMENTARY CONDITIONS

1.01 GENERAL

- A. The following Supplementary Conditions shall supplement and supersede the General Conditions of the Contract, A201, wherever the two are in conflict.
- B. The General Conditions of the Contract, A201, and these Supplementary Conditions are a part of the Contract Documents.

1.02 OWNER

- A. Article 2.1.1: The authorized representative for the State of Minnesota is the Commissioner of Transportation. The Commissioner's representative for the discharge of this Contract is the Minnesota Department of Transportation, Building Services Section.

1.03 CONTRACTOR PROVIDED PROJECT MANUALS AND DRAWINGS FOR CONSTRUCTION

- A. Add Article 2.2.5.1: The Owner (or owner's agent) will provide to the Contractor a complete pdf digital project Drawing and Project Manual set and any changes in a pdf digital file format for their construction use. AutoCAD file format (.dwg) may be provided to the Contractor only upon the MnDOT Project Manager's written approval. The Contractor will provide to their subcontractors, etc. all printed paper specifications and drawings required for the construction for the project. All printing and distribution costs incurred will be at the Contractor's expense.

1.04 DIVERSE SPEND REPORTING

- A. Add Article 3.1.9: The State of Minnesota is committed to diversity and inclusion in public procurement. If the total value of your Contract may exceed \$500,000, including all Supplemental Agreements, you must track and report, on a quarterly basis, the amount paid to diverse businesses both: 1) directly to subcontractors performing under the Contract, and 2) indirectly to diverse businesses that provide supplies/services to your company (in proportion to the revenue from this Contract compared to your company's overall revenue). When this applies, you will be set up in a free portal to help report the Tier 2 diverse spend, and the requirement continues as long as the contract is in effect.

1.05 SUPERVISION AND CONSTRUCTION PROCEDURES

- A. Add Article 3.3.1.1: Scheduling and Phasing of the Work: All costs incurred by the Contractor's phasing and scheduling of the work, and the Contractor's means, methods and sequences of the Work, are the responsibility of the Contractor, including winter conditions and any modifications to design required by Authorities Having Jurisdiction or by Industry Standard best practices incurred by the Contractor's schedule for the Work.
- B. Add Article 3.3.4: Contractor shall provide personnel indicated as Project Manager on "Prime Contractor Qualification Form" for the Work of this Contract.

3.3.4.1 : The Contractor shall employ a competent Project Manager and necessary assistants who shall assigned continuously to the work from Notice to Proceed until Final Completion. The Project Manager shall represent the Contractor, and communications given to the Project Manager shall be as binding as if given to the Contractor. The Contractor shall communicate with the Owner through the Architect.

3.3.4.2 : The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed Project Manager. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed Project Manager or (2) that the Architect requires additional time to review. Failure of the Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

3.3.4.3 : The Contractor shall not employ a proposed Project Manager to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the Project Manager without the Owner's consent, which shall not unreasonably be withheld or delayed, and the Contractor shall not change the Project Manager unless the Project Manager ceases to be employed by the Contractor.

C. Add Article 3.3.5: COVID-19 PREPAREDNESS PLAN

Prime Contractors should continue to implement COVID-19 prevention programs in the workplace as set out at Updates Related To Covid-19 | Minnesota Department Of Labor and Industry (MN.GOV). <https://www.dli.mn.gov/updates>

1.06 LABOR AND MATERIALS

A. Add Article 3.4.6: Telecommunications Equipment and Services:

Pursuant to section 889 (a) (1) (B) of the John McCain National Defense Authorization Act for fiscal year 2019, the Department may not enter into, renew, or extend a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

The statute covers certain telecommunications equipment and services produced or provided by Huawei Technologies Company or ZTE corporation (or any subsidiary or affiliate of those entities) and certain video surveillance products or telecommunications equipment and services produced or provided by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of those entities).

Contractor shall not provide and shall not use covered telecommunications equipment or services as a substantial or essential component of any system or as critical technology as part of any system.

1.07 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

A. Add Article 3.7.1.1.11: Erosion Control Personnel:

The Prime Contractor shall employ an Erosion Control Supervisor who holds a valid Minnesota Erosion and Stormwater Construction Site Management certification and who is authorized to represent the Contractor regarding requirements for Erosion and Stormwater Management. The Erosion Control Supervisor must be onsite full-time during all construction activities.

The Prime Contractor's Excavation/Earthwork Subcontractor shall employ a Foreman who holds a valid Minnesota Erosion and Stormwater Construction Site Management certification. The Foreman must be onsite full-time during all Excavation/Earthwork activity.

1.08 SUPERINTENDENT

A. Add Article 3.9.4: Contractor shall provide personnel indicated as Job Superintendent on "Prime Contractor Qualification Form" for the Work of this Contract.

1.09 SUB-CONTRACTUAL RELATIONS

A. Add Article 5.1.4: The Contractor shall make available to each Subcontractor, prior to execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors. The Contractor and subcontractors shall be in compliance with Article 5.3 of the AIA A201-2017 edition as modified by the State.

1.10 FEDERAL DEBARMENT, SUSPENSION, INELIGIBILITY & VOLUNTARY EXCLUSION

- A. Add Article 5.2.5: This contract may be a covered transaction for purposes of federal debarment and suspension regulations. The Contractor certifies that neither it, nor its principals or subcontractors, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. The Contractor further certifies that it will include this provision in any subcontracts resulting from this solicitation. If the responder knowingly renders an erroneous certification, in addition to remedies available to the Minnesota Department of Administration, the Federal Government may pursue available remedies, including but not limited to suspension or debarment.

1.11 CONSTRUCTION CHANGE REQUESTS

- A. Article 7.3.4: Change Sections 7.3.4.7 through 7.3.4.13 to 7.3.4.8 through 7.3.4.14 respectively. Add new Section 7.3.4.7 to read as follows: "Per-Diem Costs directly attributable to the change when the proposed change extends the previous established Contract Time, and the associated Direct Labor incurs additional expenditures for lodging and meals. Per-Diem Costs do not include travel reimbursement.
- B. Article 7.3.4.7: Change Items e.4 and e.5 to e.5 and e.6 respectively. Add new Item e.4 to read as follows: "Per-Diem Costs shown separately by Direct Labor and calendar day units."

1.12 PROGRESS AND COMPLETION REQUIREMENTS

- A. Article 8.2: Time of Completion Requirements:
1. Substantial Completion of the work shall be achieved on or before September 26, 2025.
 2. Upon Certification of Substantial Completion, the Contractor shall achieve Final Completion of the Substantial Completion Punchlist items within a maximum of 30 calendar days. A maximum of an additional 45 calendar days will be allowed for contract closeout.

1.13 FINAL PAYMENT INFORMATION

- A. Article 9.10.2 and 1.29 of the Instructions to Responder references the IC-134 "Withholding Affidavit for Contractors" form. The instructions and form is available at the following URL: <https://www.revenue.state.mn.us/contractor-affidavit-requirements>

1.14 LIQUIDATED DAMAGES

- A. Article 9.10.6: The contractor will be assessed liquidated damages in the amount as follows:

| <u>Contract Amount</u> | <u>Liquidated Damages Per Day</u> |
|-----------------------------|-----------------------------------|
| \$ 200,000 to \$500,000 | \$300 |
| \$ 500,001 to \$1,000,000 | \$500 |
| \$ 1,000,001 to \$2,000,000 | \$600 |
| \$ 2,000,001 and over | \$900 |

1.15 PUBLICITY

- A. Add Article 13.2.2: The Contractor shall make no representations of the State's opinion or position as to the quality or effectiveness of the products and/or services that are the subject of this Contract without the prior written consent of the contracting authority. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, and similar public notices.

END OF SECTION 00 7303

SECTION 00 7316 – INSURANCE REQUIREMENTS

- 1.01** The AIA A201, Article 11, Insurance and Bonds are hereby made a part of these specifications and contract requirements. The following Insurance Requirements shall supplement and amend the General Conditions of the Contract, A201.
-

1.02 Article 11.1.3 Business Automobile Liability

- A. The Contractor shall provide and maintain Pollution Liability Auto Endorsements. The following coverages are also required:
1. CA 9948 Endorsement – Pollution Liability – Broadened Coverage (or equivalent)
 - a. CA 9948 is an endorsement that is attached to an Automobile Liability policy for Contractors who are handling pollutants. This endorsement extends the Automobile Liability policy to cover liabilities incurred as a result of the discharge, dispersal, seepage, migration, release or escape of pollutants that are part of the contract work, which are being transported, towed by, handled, stored, disposed of or processed in or upon a covered vehicle, if they are upset or overturned.
 2. MCS 90 Endorsement
 - a. MCS-90 is an endorsement that is attached to the Automobile Liability policy of motor carriers as set forth by the Motor Carrier Act of 1980. The endorsement assures compliance by the insured, within the limits stated therein, with Sections 29 and 30 of the Motor Carrier Act of 1980 and the rules and regulations of the Federal Highway Administration (FHWA) and the Interstate Commerce Commission (ICC).
-

1.03 Article 11.1.4 Professional Liability – Design Errors and Omissions

- A. The Contractor must provide design and related services as part of this project which are certified by a Licensed Design Professional. Professional Liability – Design Errors and Omissions coverages must be maintained **by the Design Professionals** certifying design for portions of the Work in accordance with Article 11.1.4 of the AIA 201 Document.
-

1.04 (not used)

1.05 (not used)

1.06 (not used)

1.07 Article 11.3. Property Insurance

- A. Builder's Risk shall be provided and maintained by party listed in Article 11.3 of the AIA A201 Document until the contract works are accepted by the Owner. Builders Risk covers damage to materials or partially completed work due to incidents involving arson, structural collapse, hail, flooding, debris removal, or fall victim to another force majeure. Supplies, materials, machinery, and equipment that are affected or need to be replaced due to the impact from the above incidents are covered under this policy. The costs of the Contractor to repair, repurchase, or reconstruct work are covered through this policy.

The following coverages shall be included:

- Policy limit of liability shall be equal to the amount of the contract.
 - Waiver of subrogation in favor of the State of Minnesota.
-

1.08 Pollution Liability Insurance

- A. The Contractor shall provide and maintain Pollution Liability Insurance (or equivalent pollution liability coverage endorsed on another form of liability coverage, such as general liability or professional errors and omissions policy) and in case any work is subcontracted, the Contractor will require the subcontractor to provide Pollution Liability insurance, unless the requirement is noted as waived in these specifications (see 4.3.1.1 below) for specific types of work. Unless otherwise specified the insurance minimum limits of liability shall be as follows:

- **\$2,000,000** – Per Occurrence
- **\$2,000,000** – Annual Aggregate

The following coverages shall be included:

- Policy will include non-owned disposal site Pollution Liability.
- Policy will not contain a lead exclusion.
- Waiver of subrogation in favor of the State of Minnesota.

Officers and employees of the State of Minnesota, the Architect and its agents shall be named as Additional Insured's, to the extent permitted by law, for claims arising out of the Contractor's negligence or the negligence of those for whom the Contractor is responsible for both ongoing and completed operations.

END OF SECTION 00 7316

| CERTIFICATE OF LIABILITY INSURANCE | | | | | | DATE (MM/DD/YY) Date Cert. Typed | |
|---|--|--|---|---|---|-------------------------------------|--|
| PRODUCER Agent/Broker Name & Address | | | THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER, THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. | | | | |
| INSURED Contractor/Vendor Name & Address | | | INSURERS AFFORDING COVERAGE | | | | |
| | | | INSURER A: Name of Insurance Company | | | | |
| | | | INSURER B: " " " " | | | | |
| | | | INSURER C: " " " " | | | | |
| | | | INSURER D: " " " " | | | | |
| | | | INSURER E: " " " " | | | | |
| COVERAGES | | | | | | | |
| THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OF CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. | | | | | | | |
| IN SR | TYPE OF INSURANCE | POLICY NUMBER | POLICY EFFECTIVE | POLICY EXPIRATION | LIMITS | | |
| A | GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CONTRACTUAL LIABILITY <input type="checkbox"/> DEDUCTIBLE BI AND/OR GENERAL AGGREGATE <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> | Policy Number | Effective date of policy | Expiration date of policy | EACH OCCURENCE | \$2,000,000 | |
| | FIRE DAMAGE (Any) | | | | \$ 50,000 | | |
| | MED EXP (Any one) | | | | \$ 5,000 | | |
| | PERSONAL & ADVERTISING | | | | \$2,000,000 | | |
| | GENERAL | | | | \$2,000,000 | | |
| | PRODUCTS-COMP/OP | | | | \$2,000,000 | | |
| B | AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> * CA 99 48 <input checked="" type="checkbox"/> * MCS-90 | Policy Number | Effective date of policy | Expiration date of policy | COMBINED SINGLE (Ea accident) | \$2,000,000 | |
| | BODILY INJURY (Per person) | | | | \$ | | |
| | BODILY INJURY (Per accident) | | | | \$ | | |
| | PROPERTY DAMAGE (Per accident) | | | | \$ | | |
| | | | | | | | |
| | | | | | | | |
| C | EXCESS LIABILITY <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$ | Policy Number <i>(**Excess/Umbrella may be used to supplement the GL & Auto limits, to satisfy policy)</i> | Effective date of | Expiration date of | EACH OCCURENCE | \$ ** | |
| | AGGREGATE | | | | \$ ** | | |
| | | | | | \$ | | |
| | | | | | \$ | | |
| D | WORKERS COMPENSATION AND | Policy Number | Effective date of | Expiration date of | <input checked="" type="checkbox"/> STATUTORY OTHER | | |
| | E.L. EACH ACCIDENT | | | | \$100,000 | | |
| | E.L. DISEASE-EA | | | | \$100,000 | | |
| | E.L. DISEASE - | | | | \$500,000 | | |
| E | * POLLUTION LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> NON-OWNED DISPOSAL SITES <input checked="" type="checkbox"/> NO LEAD EXCLUSION | Policy Number | Effective date of policy | Expiration date of policy | Each Occurrence | \$2,000,000 | |
| | Aggregate | | | | \$2,000,000 | | |
| | | | | | | | |
| | | | | | | | |
| F | BUILDER'S RISK- If required in Article 11.3.1 of solicitation <input checked="" type="checkbox"/> "All Risk" <input checked="" type="checkbox"/> Named Perils | | | | BUILDERS RISK LIMIT-EQUAL TO CONTRACT AMOUNT | \$ | |
| | DEDUCTIBLE, IF ANY | | | | \$ | | |
| DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS | | | | | | | |
| RE: State Project Title _____ Contract # _____ | | | | | | | |
| - The State of Minnesota is named as an Additional Insured on a primary and non-contributory basis for ongoing and completed operations under Commercial General Liability, Umbrella or Excess Liability, and *Pollution Liability. - Insurance companies waive any rights to assert the immunity of the state as a defense. - A waiver of subrogation applies in favor of the certificate holder on all policies listed above. | | | | | | | |
| CERTIFICATE HOLDER | | <input checked="" type="checkbox"/> ADDITIONAL INSURED; INSURER LETTER: CANCELLATION <input type="checkbox"/> _____ | | | | | |
| The State of Minnesota Name of State Agency Street Address of State Agency City, State, & Zip Code of State Agency (See bid worksheet for agency name & address.) | | | | SHOULD ANY OF THE ABOVE POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE | | | |

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SECTION 00 7335 – NOTICE, AFFIRMATIVE ACTION

1.01 NOTICE TO PRIME CONTRACTORS' WORKFORCE CERTIFICATE OF COMPLIANCE

1. It is hereby agreed between the parties that MN Statutes, Section 363A.36 and MN Rules, Parts 5000.3400 to 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it.

1.02 NOTICE OF REQUIREMENTS FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY

1. The offeror's or Responder's attention is called to the "equal opportunity clause" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are available on Minnesota Department of Human Rights website at <https://mn.gov/mdhr/certificates/construction/> and are incorporated by reference.

These goals are applicable to all the contractor's construction work (whether it is State or State assisted performed in the covered area). For more information contact Minnesota Department of Human Rights at compliance.mdhr@state.mn.us or call **651-539-1095**.

The contractor's compliance with MN Statutes, Section 363A.36 and part 5000.3520 shall be based on its implementation of the equal opportunity clause, specific affirmative action obligations required by the specifications in part 5000.3540, and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the contractor's goals shall be a violation of the contract, MN Statutes, Section 363A.363 and part 5000.3520. Compliance with the goals will be measured against the total work hours performed.

3. The contractor shall provide written notification to the Compliance Division of the Minnesota Department of Human Rights within 10 working days of award of any construction subcontract at any tier for construction work under the contract resulting from the solicitation. The notification must list the name, address and telephone number of the subcontractor; employer identification number, estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.
4. As used in this notice, and in the contract resulting from this solicitation, the "covered area" is the geographical area where the contract is to be performed. The contracting state agency shall insert the description of the geographical areas where the contract is to be performed describing the State, County, City, Town, or Municipality of the geographical area in this notice and in the contract resulting from this solicitation.

1.03 DISABLED INDIVIDUAL CLAUSE

1. The contractor shall not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled individuals without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
2. The contractor agrees to comply with the rules and relevant order of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

3. In the event of the contractor's noncompliance with the requirements of this clause, actions for non-compliance may be taken in accordance with Minnesota Statutes, Section 363A.36 and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.
4. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.
5. The contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Minnesota Statutes, Section 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled individuals.

1.04 STANDARD STATE EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor shall implement the specific affirmative action standards provided in paragraphs 4(a) through (o) of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor shall reasonably be able to achieve in each construction trade in which it has employees in the covered area. The contractor shall make substantially uniform progress toward its goals in each craft during the period specified.
2. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specification, Minnesota Statutes, Section 363A.36 of the Minnesota Human Rights Act, of the rules adopted under the act.
3. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained according to training programs approved by the Minnesota Department of Human Rights, the Minnesota Department of Labor and Industry, or the United States Department of Labor.
4. The contractor shall take specific affirmative action to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications must be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - (a) Make a good faith effort to maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - (b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - (c) Maintain a current file of the names, address, and telephone numbers of each minority and female off-the street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If the individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall

be documented in the file with the reason therefore; along with whatever additional actions the contractor may have taken.

- (d) Provide immediate written notification to the commissioner of the Minnesota Department of Human Rights when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
- (e) Develop on-the-job training opportunities and/or participate in training programs for the areas which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the State of Minnesota. The contractor shall provide notice of these programs to the sources compiled under (b).
- (f) Disseminate the contractor's equal employment opportunity policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report etc., by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company equal employment opportunity policy on bulletin boards accessible to all employees at each location where construction work is performed.
- (g) Review, at least annually, the company's equal employment opportunity policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assigning, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as superintendents, general foremen, etc., prior to the first day of construction work at any job site. A written record shall be made and subject matter discussed and disposition of the subject matter.
- (h) Disseminate the contractor's equal employment opportunity policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's equal employment opportunity policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
- (i) Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- (j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.
- (k) Conduct, at least annually an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek to prepare for, through appropriate training, such opportunities.
- (l) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the equal employment opportunity policy and the contractor's obligations under these specifications are being carried out.
- (m) Ensure that all facilities and company activities are non-segregated except the separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- (n) Document and maintain a record of all solicitations of offers for subcontract from minority and female construction contractors and suppliers, including circulation of solicitation to minority and female contractor associations and other business associations.

- (o) Conduct a review, at least annually, of all supervisors' adherence to and performance under the contractor's equal employment opportunities policies and affirmative action obligations.
- 5. Contractors are encouraged to participate in voluntary associations that assist in fulfilling one or more of their affirmative action obligations (4(a) to (o)).
- 6. The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 4(a) to (o) of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, insures that the concrete benefits of the program are reflected in the contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply shall not be defense for the contractor's noncompliance.
- 7. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of part 5000.3520 if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of part 5000.5320 if a specific minority group of women is underutilized).
- 8. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, creed, religion, sex, national origin, and marital status, status with regard to public assistance, disability, age, or sexual orientation.
- 9. The contractor shall not enter into any subcontract with any person or firm debarred from government contracts under the federal Executive Order 11246 or a local human rights ordinance, or whose certificate of compliance has been suspended or revoked pursuant to Minnesota Statutes 363A.36.
- 10. The contractor shall carry out such sanctions for violation of these specifications and of the equal opportunity clause, including suspension, termination, and cancellation of existing contracts as may be imposed or ordered pursuant to Minnesota Statutes, 363A.36, and its implementing rules, Any contractor who fails to carry out such sanctions shall be in violation of these specifications and Minnesota Statutes, Section 363A.36.
- 11. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 4, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of Minnesota Statutes, Section 363A.36, its implementing rules, or these specifications, the commissioner shall proceed in accordance with part 5000.3570.
- 12. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company equal employment opportunity policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Minnesota Department of Human Rights, and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (for example, mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay and locations at which the work was performed.

Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

13. Nothing herein provided in this part shall be construed as a limitation upon the application of other state or federal laws that establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents.

** One sheet required for each trade with total hours on first sheet only. **

END OF SECTION 00 7335

SECTION 00 7339 – TG/ED/VO SUBCONTRACTOR REQUIREMENTS

1.01 ELIGIBLE TARGETED GROUP, ECONOMICALLY DISADVANTAGED, AND VETERAN-OWNED SMALL BUSINESSES (TG/ED/VO) SUBCONTRACTOR REQUIREMENTS

[Minn. Stat. § 16C.16, Subd. 6 (C)]

- A. This project has a 0% (Race/Gender Neutral) Targeted Group (TG), Economically Disadvantaged (ED), and Veteran-Owned (VO) Small Business (TG/ED/VO) subcontracting goals established. Targeted Group, Economically Disadvantaged, and Veteran-Owned small businesses that can be used to meet subcontracting goals **MUST** be certified by the Department of Administration, Office of State Procurement at the time of the subcontractor's work on the construction project. Prime contractors are responsible for checking for eligible (TG/ED/VO) subcontractors listed on the MMD web site under NAICS Code 1500001 at <http://www.mmd.admin.state.mn.us/process/search> and must work with the Vendor Management Specialist at 651-201-2402 or OSP.TGBReporting@state.mn.us to ensure that proposed (TG/ED/VO) subcontractors are eligible. **Prime contractors that are listed under NAICS Code 1500001 meet this subcontracting requirement just by being an eligible Targeted Group, Economically Disadvantaged, or Veteran-Owned Small Business.** If an eligible TG/ED/VO business is bidding this project as a prime contractor and they choose to use other eligible TG/ED/VO businesses as subcontractors they should, for reporting purposes, list those subcontractors in their response.
- B. For non-TGB prime contractors, credit toward the TG/ED/VO subcontracting goal shall be at 100 percent for eligible TG/ED/VO subcontractors who provide labor, materials and supplies; and at 60 percent for eligible TG/ED/VO subcontractors who provide supplies and materials only. At least 75 percent of the value of the subcontracts awarded to eligible TG/ED/VO businesses must actually be performed by the TG/ED/VO business to which the subcontract is awarded or by another eligible TG/ED/VO business. (Ref. M.S. 16C.16 subd. 6 (c) and subd. 10).

Example 1: On a \$1,000,000 project, a 5% TG/ED/VO subcontracting goal is established. The TG/ED/VO Subcontracting Report lists an eligible TG/ED/VO electrical contractor for 2.5%, an eligible TG/ED/VO mechanical contractor for 2% and an eligible TG/ED/VO material supplier for 1%. This would meet the 5% requirement as the TG/ED/VO electrical and mechanical contractors would count for 4.5% ($2.5\% + 2\% = 4.5\%$) of the project and the TG/ED/VO material supplier would count for .6% ($1\% \times 60\% = .6\%$) of the project ($4.5\% + .6\% = 5.1\%$).

- C. **TG/ED/VO subcontracting goals will not be a consideration in the contract award.** Prime Contractors must submit the attached TG/ED/VO Subcontracting Report (Page 6) on a quarterly basis unless otherwise instructed and authorized in writing by the Project Manager or Office of Equity in Procurement. The reports shall be received by the State within 14 days of the end of the quarter or reporting period. The quarter periods are January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31. Prime contractors must submit the attached FINAL TG/ED/VO Subcontracting Report (Page 7) at the time of their final payment request. A prime contractor who fails to meet the project's established TG/ED/VO subcontracting goal may request a waiver at any time from bid opening to final application for payment. At final contract payment a penalty of up to six percent (6%) of the contract not to exceed \$60,000 will be invoked if a waiver has not been issued or the TG/ED/VO subcontracting goal has not been met. The penalty to be assessed will be proportionate to the actual underuse of TG/ED/VO subcontractors as compared to the project's goal.

Example 2: On the \$1,000,000 project from Example 1, the contractor did not request a waiver, did not submit substantial good faith efforts has only achieved 4% TG/ED/VO subcontractors for the project by the time of final payment. The 4% TG/ED/VO subcontractors achieved is 80% of the 5% TG/ED/VO subcontracting goal ($4\% / 5\% = .80$). The 6% maximum penalty for this \$1,000,000 contract is \$60,000 ($\$1,000,000 \times .06$). Since the contractor did achieve 80% of TG/ED/VO subcontracting goal, the penalty accessed will be \$12,000 or 20% ($\$60,000 \times .20 = \$12,000$) of the penalty amount.

- D. Prime contractors may request a waiver from the established TG/ED/VO subcontracting goal if the awarded contractor has demonstrated good faith efforts to meet the goal. To obtain a waiver from the TG/ED/VO subcontracting goal as set out in Minn. Rules 1230.1820, subp. 3, the awarded contractor must show that it took good faith steps to achieve the TG/ED/VO subcontracting goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient TG/ED/VO business participation. The awarded contractor may submit documentation of good faith steps at any time from bid opening to its final application for payment. Whether or not to grant a waiver will be determined on a case-by-case basis by the Director of the Office of State Procurement of the Minnesota Department of Administration or his designee, who shall review all the documentation submitted by the awarded contractor and all relevant documentation in the Division's possession to determine if good faith steps were taken. The Director or his designee must consider whether the documentation demonstrates good faith efforts to achieve the TG/ED/VO subcontracting goal based on the following general types of activities conducted by the awarded contractor.
1. Soliciting through all reasonable and available means (e.g. attendance at pre-proposal/pre-bid meetings, advertising and/or written notices) the interest of all eligible TG/ED/VO businesses who have the capability to perform the work of the contract. The awarded contractor must solicit this interest within sufficient time to allow the TG/ED/VO businesses to respond to the solicitation. The awarded contractor must determine with certainty if the TG/ED/VO businesses are interested by taking appropriate steps to follow up on the initial solicitations;
 2. Selecting portions of the work to be performed by TG/ED/VO businesses in order to increase the likelihood that the TG/ED/VO subcontracting goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate TG/ED/VO businesses participation, even when the awarded contractor might otherwise prefer to perform these work items with its own forces;
 3. Providing interested TG/ED/VO businesses with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation;
 4. Negotiating in good faith with interested TG/ED/VO businesses. The awarded contractor has the responsibility to make a portion of the work available to TG/ED/VO subcontractors (of any tier) and suppliers, and to select those portions of the work or materials needs consistent with the available TG/ED/VO subcontractors and suppliers so as to facilitate TG/ED/VO participation. Evidence of such negotiations include the names, addresses, and telephone numbers of TG/ED/VO businesses that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for TG/ED/VO businesses to perform the work;
 5. Using good business judgment to consider a number of factors in negotiation with subcontractors and taking a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using TG/ED/VO businesses is not in itself sufficient reason for an awarded contractor's failure to meet the TG/ED/VO subcontracting goal, as long as such costs are reasonable. Also, the ability or desire of the awarded contractor to perform the work of a contract with its own organization does not relieve the awarded contractor of the responsibility to make good faith efforts. The awarded contractor is not, however, required to accept higher quotes from TG/ED/VO businesses if the price difference is excessive or unreasonable;
 6. Rejecting TG/ED/VO businesses as being unqualified must be based on a thorough investigation of their capabilities and sound reasons for rejecting TG/ED/VO businesses must be articulated. The awarded contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for rejection or non-solicitation of proposals/bids in the awarded contractor's efforts to meet the TG/ED/VO subcontracting goal;

7. Making efforts to assist interested TG/ED/VO businesses in obtaining bonding, lines of credit, or insurance as required by the Minnesota Department of Administration or the awarded contractor;
8. Making efforts to assist interested TG/ED/VO businesses in obtaining necessary equipment, supplies, materials or related assistance or services;
9. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, State and Federal offices of minority/women business assistance; and other organizations, to identify potential TG/ED/VO businesses and refer them to the Department of Administration, Office of Equity in Procurement for certification and
10. Meeting or exceeding average TG/ED/VO participation included by other bidders. For example, when the awarded contractor fails to meet the TG/ED/VO subcontracting goal, but other bidders for the contract indicated on their bid that they could meet it, the question may be reasonably raised as to whether, with additional reasonable efforts, the awarded contractor could have met the TG/ED/VO subcontracting goal. If the awarded contractor fails to meet the TG/ED/VO subcontracting goal, but meets or exceeds the average TG/ED/VO participation indicated by other bidders, this may be viewed, in conjunction with other factors, as evidence of the awarded contractor having made good faith efforts. The incentive rule for exceeding eligible targeted group, economically disadvantaged, or veteran-owned small business subcontracting requirements [M.S. 16C .16, Subd. 6 (c)] does not apply for this contract.

1.02 PROCEDURES FOR REQUESTING A WAIVER

- A. The prime contractor who fails to meet the TG/ED/VO subcontracting goal and wants to request a waiver must complete the attached forms: Certificate of Good Faith Efforts, Non-TG/ED/VO Accepted Quotes, and Good Faith Efforts Affidavit (Pages 4-6), along with other pertinent supporting documentation to assist the agency in determining whether a comprehensive effort has been implemented to meet the established goal.
- B. The agency will review the certificate and reserves the right to meet with the prime contractor to discuss areas of concern with the request for waiver.
- C. The agency will review, among other things, the following to ascertain whether the awarded contractor's actions represent a "good faith effort".
 1. Evidence of written notification to TG/ED/VO businesses that their participation in the contract has been solicited;
 2. Evidence of good faith negotiations with TG/ED/VO businesses for specific subcontracts that shall include, at a minimum:
 - a. A listing of the names, addresses, and telephone numbers for the TG/ED/VO businesses contacted, including the date contacted.
 - b. An explanation of why TG/ED/VO businesses who quoted the project were not awarded subcontracts.
 3. Documented efforts to secure eligible TG/ED/VO subcontractors to replace a TG/ED/VO subcontractor who cannot or will not fulfill an awarded subcontract.

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SECTION 00 7343 – PREVAILING WAGE REQUIREMENTS FOR STATE FUNDED PROJECTS

Prevailing Wage Requirements are indicated in AIA A201 2017, General Conditions of the Contract for Construction, Article 9.11.

MINNESOTA DEPARTMENT OF TRANSPORTATION PREVAILING WAGE REQUIREMENTS

Submit Payroll Reports and Statement of Compliance Forms to:
Office of Maintenance, Building Services Section
james.cloutier@state.mn.us

All Labor performed as the Work of this project must comply with “STATE FUNDED ONLY CONSTRUCTION CONTRACTS SPECIAL PROVISIONS DIVISION A – LABOR” dated January 10, 2017, except as amended below.

1. Section II. DEFINITIONS is amended to read as follows: Delete reference to “MnDOT’s Standard Specifications for Construction” and insert “AIA A201 2017, General Conditions of the Contract, State of Minnesota edition”
2. Delete Footnote 6: “MnDOT Standard Specifications for Construction, Section 1103”
3. Section XV. APPLICATION & UNDERSTANDING: Insert as follows:
The Prime Contractor and Subcontractors of all tiers must sign the Certification of Subcontractor Notice of Prevailing Wage Requirements Form 10 days before entering the Job Site. Forms must be submitted electronically to the Project’s designated Building Services Labor Compliance Officer for signature. Contractors and Subcontractors of all tiers are prohibited from performing Labor on the Job Site until the Form is approved. Failure of the Prime Contractor and Subcontractors to submit the Form is not grounds for delay claims or an extensions of Contract Time under AIA A201 Article 8.3.
4. Footnote 26: Delete “MnDOT Standard Specifications for Construction, Section 1801” and insert “AIA A201 Article 5.3”
5. Footnote 27: Delete “MnDOT Standard Specifications for Construction, Section 1701” and insert “AIA A201 Article 3.7.2”
6. Delete Footnote 79
7. Delete Footnote 80
8. Footnote 116: Delete “MnDOT Standard Specifications for Construction, Section 1801” and insert “AIA A201 Article 5.3”
9. Footnote 120: Delete “MnDOT Standard Specifications for Construction, Section 1801” and insert “AIA A201 Article 3.1.3.”
10. Footnote 123: Delete “MnDOT Standard Specifications for Construction, Section 1701”
11. Footnote 125: Delete “MnDOT Standard Specifications for Construction, Section 1801” and insert “AIA A201 Article 5.3”
12. Footnote 126: Delete “MnDOT Standard Specifications for Construction, Section 1906” and insert: “AIA A201 Article 9.5.1”
13. Footnote 128: Delete “MnDOT Standard Specifications for Construction, Section 1808 and insert: “AIA A201 Article 14.2.1”

STATE FUNDED ONLY CONSTRUCTION CONTRACTS SPECIAL PROVISIONS DIVISION A – LABOR (01/10/17)

I. INTRODUCTION

- A. **Policy Statement.** It is in the public interest that public buildings and other public works projects be constructed and maintained by the best means and the highest quality of labor reasonably available and that persons working on public works projects be compensated according to the real value of the services they perform.¹
- B. **State and Federal Regulations Govern.** This Contract is subject to the Minnesota Prevailing Wage Act², Minnesota Fair Labor Standards Act³, Minnesota Rules⁴, Minnesota Department of Labor and Industry (MnDLI) Wage Decision(s), MnDLI Truck Rental Rate Schedule and the Federal Fair Labor Standards Act.⁵
- C. **Purpose.** These provisions: (1) outline your obligations under state and federal laws, rules and regulations; (2) explain the requirements necessary to demonstrate compliance; and (3) explain the processes that the Department will undertake to ensure compliance.
- D. **Questions or Resources.** Please visit the Minnesota Department of Transportation (MnDOT) Labor Compliance Unit (LCU) website at: www.dot.state.mn.us/const/labor.

II. DEFINITIONS

Many of the terms used in these provisions are defined in MnDOT's Standard Specifications for Construction,⁶ unless defined below.

- A. **Apprentice.** A Worker at least 16 years of age who is employed to learn an apprenticeable trade or occupation in a registered apprenticeship program.⁷
- B. **Bona Fide.** Made or carried out in good faith; authentic.⁸
- C. **Certified Payroll Report (CPR).** A report comprised of two components; (1) a payroll report, and (2) a statement of compliance report.⁹
- D. **Contractor.** An individual or business entity that is engaged in construction or construction service-related activities including trucking activities either directly or indirectly through a Contract, or by Subcontract with the Prime Contractor, or by a further Subcontract with any other person or business entity performing Work.¹⁰
- E. **Employer.** An individual, partnership, association, corporation, business trust, or other business entity that hires a Worker.¹¹
- F. **Fringe Benefit.** An employment benefit given in addition to a Worker's wages or salary.¹²
- G. **Independent Truck Owner/Operator (ITO).** An individual, partnership, or principal stockholder of a corporation who owns or holds a vehicle under lease and who contracts that vehicle and the owner's services to an entity which provides construction services to a public works project.¹³

1 Minn. Stat. 177.41

2 Minn. Stat. 177.41 to 177.44

3 Minn. Stat. 177.21 to 177.35

4 Minn. R. 5200.1000 to 5200.1120

5 29 U.S.C. 201, et seq.

6 MnDOT Standard Specifications for Construction, Section 1103

7 Minn. Stat. 178.011, Subdivision 2

8 The American Heritage College Dictionary, Third Edition, 2000

9 Minn. R. 5200.1106, Subpart 10

10 Minn. R. 5200.1106, Subpart 2(D)

11 Minn. Stat. 177.42, Subdivision 7

12 The American Heritage College Dictionary, Third Edition, 2000

13 Minn. R. 5200.1106, Subpart 7(A)

- H. **Journeyworker.** A person who has attained a level of skill, abilities, and competencies recognized within and industry as having mastered the skills and competencies required for the trade or occupation.¹⁴
- I. **Prime Contractor.** An individual or business entity that enters into a Contract with the Department.¹⁵
- J. **Subcontract.** A Contract that assigns some obligations of a prior Contract to another party.¹⁶
- K. **Substantially In Place.** Mineral aggregate is deposited on the project site directly or through spreaders where it can be spread from or compacted at the location where it was deposited.¹⁷
- L. **Total Prevailing Wage Rate.** The sum of the prevailing hourly “basic” and “fringe” rate that is established in a Wage Decision.
- M. **Trucking Broker (Broker).** An individual or business entity, the activities of which include, but are not limited to: contracting to provide trucking services in the construction industry to users (Contractor) of such services, contracting to obtain such services from providers (ITO/MTO) of trucking services, dispatching the providers (ITO/MTO) of the services to do Work as required by the users (Contractor) of the services, receiving payment from the users (Contractor) in consideration of the trucking services provided, and making payment to the providers (ITO/MTO) for the services.¹⁸
- N. **Trucking Firm/Multiple Truck Owner (MTO).** Any legal business entity that owns more than one vehicle and hires the vehicles out for services to Trucking Brokers or Contractors on public works projects.¹⁹ A MTO also includes: (1) a legal business entity that is not primarily owned by the operator of the truck; and (2) a legal business entity that owns one truck that is operated by two or more individuals.
- O. **Truck Rental Rate Schedule.** A document prepared by the MnDLI through a Contractor survey process that identifies the required hourly Total Prevailing Wage Rate and operating cost for various types of trucks that perform hauling activities (Work) under a Contract that is funded in whole or in part with state funds.²⁰
- P. **Wage Decision.** A document prepared by the MnDLI through a Contractor survey process that identifies the required hourly basic rate of pay and hourly Fringe Benefits for various labor classifications that perform Work under a Contract that is funded in whole or in part with state funds.²¹
- Q. **Work (Work).** All construction activities associated with a public works project, including any required hauling activities on-the-site-of or to-or-from a public works project and conducted pursuant to a Contract, regardless of whether the construction activity or Work is performed by the Prime Contractor, subcontractor, Trucking Broker, Trucking Firm (MTO), ITO, independent contractor, or employee or agent of any of the foregoing entities.²²
- R. **Worker (Laborer or Mechanic).** A Worker in a construction industry labor class identified in or pursuant to Minnesota Rules 5200.1100, Master Job Classifications.²³

III. APPLICATION & UNDERSTANDING

- A. **Provisions & Prevailing Wage Rates Apply.** These provisions, along with the prevailing Wage Decision(s) that are incorporated into the Contract, apply to all Contractors contracting to do all or part of the Work.²⁴

14 Minn. Stat. 178.011, Subdivision 9

15 Minn. R. 5200.1106, Subpart 2(C)

16 The American Heritage College Dictionary, Third Edition, 2000

17 Minn. R. 5200.1106, Subpart 5(C)

18 Minn. R. 5200.1106, Subpart 7(C)

19 Minn. R. 5200.1106, Subpart 7(B)

20 Minn. R. 5200.1105

21 Minn. R. 5200.1020 to 5200.1060

22 Minn. R. 5200.1106, Subpart 2(A)

23 Minn. R. 5200.1106, Subpart 5(A)

24 Minn. Stat. 177.44, Subdivision 1

- B. **Truck Rental Rates Apply.** The Truck Rental Rate Schedule incorporated into the Contract applies to all hired trucking entities that perform covered hauling activities related to the project.²⁵
- C. **Prevailing Wage Terms Must Be Included in All Contracts.** The Prime Contractor is required to ensure that all subcontractors performing Work receive the Contract Wage Decision(s), Truck Rental Rate Schedule, and a copy of these provisions with their written Subcontracts, agreements and/or purchase orders.²⁶
- D. **Responsible for Understanding All Requirements.** Each Contractor is responsible for understanding all laws, rules, regulations, plans, and specifications that are incorporated physically, or by reference, into the Contract.²⁷
- E. **E-Verify.** For services valued in excess of \$50,000, the Contractor certifies that as of the date of services performed on behalf of State, the Contractor will have implemented or be in the process of implementing the federal E-Verify program for all newly hired employees in the United States who will perform work under the contract. The Prime Contractor is responsible to collect all subcontractor certifications and may do so utilizing the E-Verify Subcontractor Certification Form available at <http://www.mmd.admin.state.mn.us/doc/EverifySubCertForm.doc>. All subcontractor certifications must be kept on file with the Prime Contractor and made available to the State upon request.

IV. **VENDOR REGISTRATION**

Vendor Registration Required. A Contractor that performs Work, supplies material, or product must be registered with MnDOT. The Contractor must complete and submit a vendor form²⁸ to the MnDOT LCU²⁹, along with all applicable documentation that is required. This registration process is separate and distinct from other state agency requirements.

V. **LABOR CLASSIFICATIONS**

- A. **Labor Classification Assignment.** A Worker must be paid at least the Total Prevailing Wage Rate in the same or most similar trade or occupation.³⁰ To determine the appropriate labor classification for a Worker, a Contractor must refer to the Wage Decision(s) incorporated into the Contract, the labor classification descriptions for laborers and special crafts established in Minnesota Rules or the United States Department of Labor's Dictionary of Occupational Titles.³¹
- B. **Labor Classification Clarification & Disputes.** A Contractor needing assistance in determining a labor classification must submit a Classification Clarification Request³² to the MnDOT LCU for a written decision. If the Contractor chooses to contest the classification assignment, it must provide written notice to the MnDOT LCU. The MnDOT LCU will forward the matter to the MnDLI for a final ruling.
- C. **Performing Work in Multiple Labor Classifications.** For Workers performing Work in multiple labor classifications, the Contractor must compensate at a minimum the Total Prevailing Wage Rate, and report the hours worked, in each applicable labor classification.³³

VI. **WAGE DECISION(S) & WAGE RATE(S)**

- A. **Applicability of a Highway and Heavy Wage Decision.** A highway and heavy Wage Decision applies to a Worker that is engaged in a construction activity or performing Work to

²⁵ Minn. Stat. 177.44, Subdivision 3

²⁶ MnDOT Standard Specifications for Construction, Section 1801

²⁷ MnDOT Standard Specifications for Construction, Section 1701

²⁸ www.dot.state.mn.us/const/labor/documents/forms/contractorform2016.pdf or www.dot.state.mn.us/const/labor/documents/forms/truckvendorform2016.pdf

²⁹ lcusupport.dot@state.mn.us

³⁰ Minn. Stat. 177.44, Subdivision 1

³¹ Minn. R. 5200.1101 and 1102 and US DOL Dictionary of Occupational Titles

³² <http://www.dot.state.mn.us/const/labor/documents/forms/classification-clarification-request.pdf>

³³ Minn. Stat. 177.44, Subdivision 1

- construct or maintain a highway or other public works project, such as a road, street, airport runway, bridge, power plant, dam or utility³⁴ that is external to a sheltered enclosure (structure). This includes, but is not limited to, the following Work: site clearing; grading; excavating backfilling; paving; curbs; gutters; sidewalks; culverts; bridges; lighting systems; traffic management systems; installing of utilities out from an exterior meter; fuel islands; communication towers; or other activities similar to highway and/or heavy Work.
- B. Applicability of a Commercial Wage Decision.** A commercial Wage Decision applies to a Worker that is engaged in a construction activity or performing Work to construct a sheltered enclosure (structure) with walk-in access for the purpose of housing persons, machinery, equipment or supplies.³⁵ This includes, but is not limited to, the following Work: constructing foundations, aprons, stoops; framing walls; installing windows, doors, tiling, plumbing, electrical, HVAC systems; roofing; installing utilities into the building from an exterior meter.
- C. Pay According to Wage Decision(s).**
1. **Contract with One Wage Decision.** If the Contract contains one Wage Decision, the Contractor must examine the Wage Decision and compensate the Worker at a minimum the Total Prevailing Wage Rate for the appropriate labor classification(s).
 2. **Contract with Multiple Highway/Heavy Wage Decisions.** If the Contract contains multiple Highway/Heavy Wage Decisions, the Contractor must examine each Wage Decision and compensate the Worker, at a minimum, the Total Prevailing Wage Rate that is the greatest³⁶ for the appropriate labor classification(s).
 3. **Contract with Highway/Heavy and Commercial Wage Decision(s).** If the Contract contains a Highway/Heavy and Commercial Wage Decision(s), the Contractor must first determine which Wage Decision is applicable to the Worker. The Contractor must then compensate the Worker, at a minimum, the Total Prevailing Wage Rate for the appropriate labor classification(s).
- D. Must Pay Total Prevailing Wage Rate.** A Contractor must compensate each Worker, at a minimum, the Total Prevailing Wage Rate(s) for all hours worked on the project for the appropriate labor classification(s).³⁷
- E. Missing Wage Rate.** If a Wage Decision fails to include a wage rate for a labor classification(s) that will be utilized on a project, the Contractor must obtain a wage rate prior to furnishing an estimate, quote or bid.³⁸
1. **Wage Rate Request.** A Contractor must complete a Request for Rate Assignment form³⁹ and submit it to the MnDOT LCU⁴⁰ for processing.
 2. **No Contract Price Adjustment for Missing Wage Rate.** If MnDLI determines that a higher wage rate applies, the Department will not reimburse the Contractor.
- F. Salaried Worker.** A salaried Worker is not exempt from these Provisions. A Contractor must convert the Worker's salary to an average hourly rate of pay by dividing the Worker's salary by the total number of hours Worked (government and non-government) during the pay period.⁴¹ A salaried Worker must be included on a CPR.
- G. Reduction in Standard (Private) Contractual Regular Rate of Pay Prohibited.** A Contractor must not reduce a Worker's standard, contractual regular rate of pay when the prevailing wage rate(s) certified by the MnDLI is less.⁴²

34 Minn. R. 5200.1010, Subdivision 3

35 United States Department of Labor All Agency Memorandum #130

36 Minn. Stat. 177.44, Subdivision 4

37 Minn. Stat. 177.44, Subdivision 1

38 Minn. R. 5200.1030, Subpart 2a(C)

39 <http://www.dot.state.mn.us/const/labor/documents/forms/request-for-rate-assignment.doc>

40 lcusupport.dot@state.mn.us

41 Refer to Appendix A

42 Minn. Stat. 181.03, Subdivision 1(2)

- H. **Prohibited Payment Practices.** A Contractor is prohibited from taking (accepting) a rebate for the purpose of reducing or otherwise decreasing the value of the compensation paid.⁴³
- I. **Prohibited Deductions.** Direct or indirect deductions from a Worker's wages will not be allowed for:⁴⁴
1. **Uniforms.** Purchased or rented uniforms or specifically designed clothing that is required by the Employer, by the nature of employment, or by statute, or as a condition of employment.
 2. **Equipment.** Purchased or rented equipment used in employment. The cost of the Worker's use of equipment used outside of employment, such as tools, a motor vehicle, cell phone, may be deducted only if an agreement between the Employer and employee existed prior to the purchase of the equipment.
 3. **Supplies.** Consumable supplies required in the course of employment.
 4. **Travel Expenses.** Travel expenses in the course of employment except those incurred in traveling to and from the employee's residence and place of employment.
- J. **Permissible Payroll Deductions.** Deduction(s) voluntarily consented to, or authorized, by the Worker in writing, and in advance of the period in which work is done, is allowable, along as the deduction(s) is bona fide and in the best interested of the Worker.⁴⁵

VII. HOURS OF WORK

- A. **Work Performed Under the Contract.** A Worker performing Work is subject to prevailing wage for all hours associated with the Contract⁴⁶, unless the Worker is exempt under state law.⁴⁷
- B. **Wait Time Subject to Prevailing Wage.** A Worker who is required to remain on the project and is waiting to Work because of the fault of the Contractor is considered "engaged to wait" and subject to prevailing wage for the time spent, unless the Worker is completely relieved of duty and free to leave the project for a defined period of time.⁴⁸
- C. **On-Call Time Subject to Prevailing Wage.** A Contractor that requires a Worker to remain on the project (or so close to the project that the Worker cannot use the time effectively for the Worker's own purposes) the Worker is considered "on-call."⁴⁹ On-call time is paid time, unless the Worker is completely relieved of duty and free to leave the project for a defined period of time.⁵⁰
- D. **Travel Time (Compensable).** The following examples are considered hours worked and the Employer must compensate the Worker under the Fair Labor Standards Act:
1. **Travel all in a Day's Work.** Time a Worker spends traveling from place-of-work to Project Site, Project Site to place-of-work, or between project sites, during working hours.⁵¹
 2. **Travel Away from Home Community (One Day).** Time a Worker spends traveling to - and returning from - the other city. The Employer is allowed to subtract the time the Worker would normally spend traveling from home to work.⁵² **(see Subpart E(1) of this section)**
 3. **Travel Away from Home Community (Overnight).** Time a Worker spends traveling away from - and back to - their home community. The Employer is allowed to subtract the time the Worker would normally spend traveling from home to work.⁵³ **(see Subpart E(1) of this section)**

43 Minn. R. 5200.1106, Subpart 6

44 Minn. Stat. 177.24, Subdivision 4(1-4); Minn. R. 5200.1106, subpart 4

45 United States Department of Labor Field Operation Handbook, Section 15f07(b)

46 Minn. Stat. 177.44, Subdivision 1

47 Minn. Stat. 177.44, Subdivision 2 or Minn. R. 5200.1106, Subpart 4

48 United States Department of Labor Fact Sheet #22

49 Minn. R. 5200.0120, Subpart 2

50 Minn. R. 5200.0120, Subpart 3

51 United States Department of Labor Fact Sheet #22

52 United States Department of Labor Fact Sheet #22

53 United States Department of Labor Fact Sheet #22

- E. **Travel Time (Non-Compensable).** The following examples are not considered hours worked and the Employer does not need to compensate the Worker:
1. **Travel from Home to Work.** Time a Worker spends traveling from home-to-work, or work-to-home, before the workday begins, or after the workday ends.⁵⁴
 2. **Passenger in a Vehicle.** Time a Worker spends as a passenger in a vehicle traveling away from home community, outside of regular working hours, on any day of the week. This exemption only applies to a Worker that is not performing any work-related duties during the time as a passenger.⁵⁵

VIII. FRINGE BENEFITS

- A. **Funded Fringe Benefit Plan Criteria.** In order for a funded Fringe Benefit (e.g., health/medical insurance, disability insurance, life insurance, pension, etc.) to be considered and creditable towards the Total Prevailing Wage Rate it must be:⁵⁶
1. a contribution irrevocably made by a Contractor on behalf of an Worker to a financially responsible trustee, third person, fund, plan, or program;
 2. carried out under a financially responsible plan or program;
 3. legally enforceable;
 4. communicated in writing to the Worker; and
 5. made available to the Worker once he/she has met all eligibility requirements.
- B. **Unfunded Fringe Benefit Plan Criteria.** In order for a unfunded Fringe Benefit (e.g., vacation, holiday, sick leave, etc.) to be considered and creditable towards the Total Prevailing Wage Rate it must be:⁵⁷
1. reasonably anticipated to provide a benefit;
 2. a commitment that can be legally enforced;
 3. carried out under a financially responsible plan or program;
 4. communicated in writing to the Worker; and
 5. made available to the Worker once he/she has met all eligibility requirements.
- C. **Fringe Benefit Contributions for Hours Worked.** A Contractor that provides Fringe Benefits to a Worker must make contributions, not less than quarterly⁵⁸, for all hours worked,⁵⁹ including overtime hours, unless it's a defined benefit or contribution plan that provides for immediate participation and immediate or essentially immediate vesting (**see subpart D2 of this section**).⁶⁰
- D. **Hourly Fringe Benefit Credit.** An hourly Fringe Benefit credit toward the Total Prevailing Wage Rate must be determined separately for each Worker⁶¹ based on one or more of the following methods:
1. **Monthly, Quarterly or Annual Computation Methods.** A Contractor must compute its monthly, quarterly or annual cost⁶² of a particular Fringe Benefit and divide that amount by the estimated total number of hours worked (government and non-government) during the time frame used.⁶³ Typical plans that require monthly, quarterly or annual computations include but are not limited to: health/medical insurance, disability insurance, life insurance, vacation, holiday, sick leave and defined benefit or contribution pension plans that do not provide for immediate participation and immediate or essentially immediate vesting.
 2. **Fringe Benefit Credit not Requiring Monthly, Quarterly or Annual Computation Methods.** A defined benefit or contribution pension plan that allows for a higher hourly

54 United States Department of Labor Fact Sheet #22

55 United States Department of Labor Fact Sheet #22

56 Minn. Stat. 177.42, Subdivision 6

57 Minn. Stat. 177.42, Subdivision 6

58 29 CFR, Part 5.5(a)(1)(i)

59 Government and non-government Work

60 United States Department of Labor Field Operation Handbook, Section 15f14(f)(1)

61 United States Department of Labor Field Operation Handbook, Section 15f11(c)

62 United States Department of Labor Field Operation Handbook, Section 15f12(a-d)

63 Refer to Appendix B

rate of contribution for government work (prevailing wage) than non-government (non-prevailing wage) will be fully credited only if the plan provides for immediate participation and immediate or essentially immediate vesting.⁶⁴

- E. **Wages In Lieu of Fringe Benefits.** A Contractor that does not provide full Fringe Benefits must compensate a Worker the difference between the Total Prevailing Wage Rate and the rate actually paid for the appropriate labor classification(s).⁶⁵ The compensation paid is considered wages and subject to tax liabilities.
 - 1. **Overtime.** The cash equivalent (wages paid) made in lieu of Fringe Benefits is excluded from the overtime calculation requirement, unless the cash equivalent (wages paid) is part of the Worker's standard straight time wage.⁶⁶
- F. **Administrative Costs Not Creditable.** Administrative expenses incurred by a Contractor in connection with the administration of a Bona Fide Fringe Benefit plan are not creditable towards the Total Prevailing Wage Rate.⁶⁷
- G. **Federal, State & Local Fringe Benefit Credit Prohibited.** No credit is allowed for benefits required by federal, state or local law, such as: worker's compensation, unemployment compensation, and social security contributions.⁶⁸
- H. **Transportation, Board and Lodging Costs Not Fringe Benefits.** Payments for the cost of transportation, board and lodging are not Fringe Benefits.⁶⁹ A Contractor that sends a Worker away from home to perform work outside the Worker's normal commuting distance so that, as a practical matter, the Worker can return home on the weekend only, must incur the cost of transportation, meals and lodging.⁷⁰

IX. OVERTIME

- A. **Overtime after 8 Hours per Day or 40 Hours per Week.** A Contractor must not permit or require a Worker to work longer than the prevailing hours of labor unless the Worker is paid for all hours in excess of the prevailing hours at a rate of at least 1.5 times the hourly basic rate of pay.⁷¹ The prevailing hours of labor is defined as not more than 8 hours per day and more than 40 hours per week.⁷²
- B. **Wages in Lieu of Fringe Benefits Overtime.** Wages paid in Lieu of Fringe Benefits must be paid for all hours worked under the contract.
- C. **Multiple Labor Classifications and Overtime.** A Worker employed in multiple labor classifications throughout a workweek must be compensated at the applicable labor classification overtime rate in effect during the hours worked in excess of 8 hours per day or 40 hours per week.
- D. **Federal Fair Labor Standards Act (FLSA) and Overtime.** A Contractor subject to the FLSA may be subject to additional overtime compensation requirements.

64 United States Department of Labor Field Operation Handbook, Section 15f14(f)(1)

65 United States Department of Labor Field Operation Handbook, Section 15f11(c)

66 2010 United States Department of Labor Field Operation Handbook, Section 15k06

67 United States Department of Labor Field Operation Handbook, Section 15f18

68 Minn. Stat. 177.42, Subdivision 6

69 Minn. Stat. 177.44, Subdivision 4(4); Minn. R. 5200.0900, Subpart 1; Minn. R. 5200.0700, Subpart 1.

70 2010 United States Department of Labor Field Operation Handbook, Section 15f19

71 Minn. Stat. 177.44, Subdivision 1 and Refer to Appendix D

72 Minn. Stat. 177.42, Subdivision 4

X. PAYROLLS AND STATEMENTS

A. Reporting. Each Contractor that is performing Work must submit a CPR(s) to the Department.

- a. **Payroll Report (Paper).** Each Contractor performing Work must submit a paper (written) payroll report to the Department. The payroll report is available on the MnDOT LCU website.⁷³
- b. **Statement of Compliance (Paper).** Each Contractor's paper (written) payroll report must include a paper (written) "Statement of Compliance Form". The "Statement of Compliance Form" must: (1) state whether or not Fringe Benefits are provided to a Worker; (2) provide a description of each benefit, the hourly contribution made on behalf of each Worker, along with fund/plan information; and (3) a signature attesting that the payroll and Fringe Benefit information provided is truthful and accurate.⁷⁴
- c. **Electronic Reporting.** If the Contract is subject to electronic reporting, each Contractor performing Work must submit a CPR(s) using the AASHTOWare, Civil Rights Labor (CRL) system. Refer to the **Special Provisions Division S – "Electronic Submission of Payrolls and Statements"** which is incorporated into and found elsewhere in the Contract for detailed requirements.

B. Biweekly Payroll Reporting and Payment of Wages. A CPR(s) must be submitted no later than 14 calendar days after the end of each Contractor's pay period⁷⁵ to the Department. A Contractor must pay its employees at least once every 14 calendar days.⁷⁶

C. Payroll Report Data. Each payroll report must include all Workers that performed Work and provide at a minimum the following information:⁷⁷

1. Contractor's name, address, and telephone number.
2. State project number.
3. Contract number (if applicable).
4. Project number.
5. Payroll report number.
6. Project location.
7. Workweek end date.
8. Each Worker's name, home address, and social security number.⁷⁸
9. Labor classification(s) title(s) and optional three-digit code for each Worker.
10. Hours worked daily and weekly in each labor classification, including overtime hours, for each Worker.
11. Wage rate paid to each Worker for straight time and overtime.
12. Authorized legal deductions for each Worker.
13. Project gross amount, weekly gross amount, and net wages paid to each Worker.

D. Prime Contractor to Ensure Compliance. The Prime Contractor must review the CPR(s) submitted by each lower tier Contractor and sign the "Statement of Compliance Form".⁷⁹ The Prime Contractor must ensure that each lower tier Contractor's CPR(s) include all Workers that performed Work and accurately reflect labor classifications, hours worked, regular and overtime rates of pay, gross earnings for the project and Fringe Benefits.⁸⁰

E. Retention of CPR(s). The Prime Contractor must keep its written CPR(s), including those of all lower tier Contractors, for three (3) years after the final payment is issued.⁸¹

F. Retention of Employment-Related Records. Each Contractor must keep employee records, including, but not limited to: Fringe Benefit statements, time cards, payroll ledgers, check

⁷³ www.dot.state.mn.us/const/labor/certifiedpayroll.html

⁷⁴ Minn. R. 5200.1106, Subpart 10

⁷⁵ Minn. Stat. 177.43, Subdivision 3

⁷⁶ Minn. Stat. 177.30 (a)(4)

⁷⁷ Minn. Stat. 177.30 (a)(1-4) and Minn. R. 5200.1106, Subpart 10

⁷⁸ Minn. R. 5200.1106, Subpart 10A & Minn. Stat. 13.355, Subdivision 1

⁷⁹ MnDOT Standard Specifications for Construction, Section 1701

⁸⁰ MnDOT Standard Specifications for Construction, Section 1801

⁸¹ Minn. Stat. 177.30 (a)(5)

registers and canceled checks⁸² for at least three (3) years after the final payment is issued.⁸³ Other laws may have longer retention requirements.

G. Detailed Earning Statement. At the end of each pay period, each Contractor must provide every Worker, in writing or by electronic means, an accurate, detailed earnings statement.⁸⁴

H. Reports and Records Request. Upon a request from the Department, the Prime Contractor must promptly furnish copies of CPR(s) for its Workers and those of all lower tier Contractors, along with employment-related records, documents, and agreements that the Department considers necessary to determine compliance.⁸⁵

XI. APPRENTICES, TRAINEES AND HELPERS

A. Apprentice. An Apprentice will be permitted to Work at less than the prevailing basic hourly rate only if the Apprentice is:

1. Registered with the U.S. Department of Labor (DOL), Bureau of Apprenticeship and Training or MnDLI Division of Voluntary Apprenticeship.⁸⁶
2. Performing Work of the trade, as described in the apprenticeship agreement.⁸⁷
3. Compensated according to the rate specified in the program for the level of progress.⁸⁸
4. Supervised by a Journeyworker from the same company, in accordance with the program ratio requirements.⁸⁹

B. Ratio Requirement. If an approved apprenticeship program fails to define a ratio allowance, the first Apprentice must be supervised by a Journeyworker within the same trade or occupation. Any subsequent Apprentice must be supervised by an additional three Journeyworkers.⁹⁰

C. Failure to Comply with Apprenticeship Requirements. If a Contractor fails to demonstrate compliance with the terms established in this section, the Contractor must compensate the Apprentice not less than the applicable Total Prevailing Wage Rate for the actual classification of labor performed.⁹¹

D. Trainee and Helper. A trainee or helper is not exempt from prevailing wage under state law. The Contractor must assign the trainee or helper a labor classification that is the "same or most similar"⁹² and compensate the trainee or helper for the actual Work performed regardless of the trainee's or helper's skill level.

XII. INDEPENDENT CONTRACTORS, OWNERS, SUPERVISORS, AND FOREMAN

A. Independent Contractor. An independent contractor (IC) that is not an Independent Truck Owner/Operator (ITO), who is performing Work must be properly classified and compensated.⁹³ The IC must submit a CPR(s) to the Department. If the IC does not receive an hourly wage, but instead a weekly, biweekly, monthly or quarterly distribution for performance, the IC must calculate its hourly rate of pay by dividing the weekly, biweekly, monthly, or quarterly company distribution by all hours worked during that time frame and report the information on a CPR. If necessary, the Department may request documentation from the IC to determine how the hourly wage rate was calculated.⁹⁴

B. Owners, Supervisors and Foreman. An owner, supervisor, or foreman performing Work is subject to prevailing wage and must be properly classified, compensated and reported.⁹⁵

82 Minn. R. 5200.1106, Subpart 10

83 Minn. Stat. 177.30 (a)(5)

84 Minn. Stat. 181.032

85 Minn. Stat. 177.44, Subdivision 7; Minn. Stat. 177.33(a)(5)

86 Minn. R. 5200.1070, Subpart 1

87 29 CFR, Part 29.2(j)

88 Minn. R. 5200.1070, Subpart 1 and Refer to Appendix C

89 Minn. Stat. 178.036, Subdivision 5

90 Minn. Stat. 178.036, Subdivision 5

91 Minn. R. 5200.1070, Subpart 3

92 Minn. Stat. 177.44, Subdivision 1

93 Minn. Stat. 177.44, Subdivision 1

94 Minn. Stat. 177.30(a)(5); Minn. Stat. 181.723; United States Department of Labor Field Operation Handbook, Section 15f08

95 Minn. Stat. 177.44, Subdivision 1

XIII. TRUCKING

- A. Covered Hauling Activities.** A Contractor must ensure that all Workers, including hired Trucking Brokers, MTOs and ITOs are paid the applicable Total Prevailing Wage Rate or truck rental rate for the following Work:
1. The hauling of material to and from a Prime Contractor's material operation that is not a separately owned commercial establishment.⁹⁶
 2. The hauling of any or all stockpiled or excavated materials on the project work site to other locations on the same project even if the truck leaves the work site at some point.⁹⁷
 3. The delivery of materials from a non-commercial establishment to the project and the return haul to the starting location either empty or loaded.⁹⁸
 4. The delivery of materials from another construction project site to the public works project and the return haul, either empty or loaded. Construction projects are not considered commercial establishments.⁹⁹
 5. The hauling required to remove any materials from the project to a location off the project site and the return haul, either empty or loaded from other than a commercial establishment.¹⁰⁰
 6. The delivery of materials or products by trucks hired by a Contractor, subcontractor, or agent thereof, from a commercial establishment.¹⁰¹
 7. The delivery of mineral aggregate materials by or for a commercial establishment, which is deposited "Substantially in Place", and the return haul to the off-site facility either empty or loaded.¹⁰²
- B. Hauling Activities Not Subject to Prevailing Wage or Truck Rental Rates.** A Contractor may exclude a Worker, including hired Trucking Brokers, MTOs and ITOs from prevailing wage or truck rental rates for the Work described in (1-2) of this section. However, this Work is considered hours worked and subject to standard compensation.
1. The delivery of processed or manufactured goods to a public works project by Workers hired by or employed directly for a commercial establishment, unless it is the delivery of mineral aggregate that is deposited Substantially in Place.¹⁰³
 2. The delivery of oil offsite, to a Prime Contractor's permanent (commercial) asphalt mixing facility that is not to, from, or on the project Work site.¹⁰⁴
- C. Repair, Maintenance & Waiting to Load Time.** An ITO and MTO must be paid the truck rental rate for time spent repairing or maintaining equipment, and for waiting to load or unload if the repair, maintenance, or wait time is the fault of the Trucking Broker, Contractor, its agent or employees.¹⁰⁵
- D. Month End Trucking Report.** A Contractor that acquires the services of an ITO or MTO must submit a "MnDOT – MTO and/or ITO Month-End Trucking Report", and a "MnDOT – Month-End Trucking Statement of Compliance Form" to the Department for each month hauling activities are performed under the Contract.¹⁰⁶ The forms are available on the MnDOT LCU website.¹⁰⁷

⁹⁶ ALJ Findings of Fact, Conclusions of Law, and Recommendation, Conclusions (7), Case #12-3000-11993-2

⁹⁷ Minn. R. 5200.1106, Subpart 3B(1)

⁹⁸ Minn. R. 5200.1106, Subpart 3B(2)

⁹⁹ Minn. R. 5200.1106, Subpart 3B(3)

¹⁰⁰ Minn. R. 5200.1106, Subpart 3B(4)

¹⁰¹ Minn. R. 5200.1106, Subpart 3B(5)

¹⁰² Minn. R. 5200.1106, Subpart 3B(6)

¹⁰³ Minn. R. 5200.1106, Subpart 4(C)

¹⁰⁴ J.D. Donovan, Inc. vs. Minnesota Department of Transportation, 878 N.W.2d 1 (2016)

¹⁰⁵ Minn. R. 5200.1106, Subpart 8(A)(1)

¹⁰⁶ Minn. R. 5200.1106, Subpart 10

¹⁰⁷ <http://www.dot.state.mn.us/const/labor/forms.html>

- E. **Broker Fee.** A Trucking Broker contracting to provide trucking services to a user (Contractor)¹⁰⁸ must receive payment from the user (Contractor) in consideration of the trucking services provided.¹⁰⁹ Broker fees must not be charged to ITOs and MTOs.¹¹⁰
- F. **MTO Request to Sublet Form.** A Contractor that hires a MTO must provide a “MTO Request to Sublet Form” to the Department. The form is available on the MnDOT LCU website.¹¹¹

XIV. OFF-SITE FACILITIES

- A. **Off-Site Facility Activities Subject to Prevailing Wage.** A Contractor must ensure that all Workers performing Work at a covered off-site facility are paid the applicable Total Prevailing Wage Rate for the following Work:
1. The processing or manufacturing of material at a Prime Contractor’s off-site facility that is not a separately held commercial establishment.¹¹²
 2. The processing or manufacturing of material at an off-site facility that is not considered a commercial establishment.¹¹³
- B. **Off-Site Facility Activities Not Subject to Prevailing Wage.** A Contractor may exclude a Worker from prevailing wage for the following work:
1. The processing or manufacturing of material or products by or for a commercial establishment.¹¹⁴
 2. The work performed by Workers employed by the owner or lessee of a gravel or borrow pit that is a commercial establishment, even if the screening, washing or crushing machines are portable.¹¹⁵

XV. SUBCONTRACTING PART OF THE CONTRACT

The Prime Contractor must include the Contract Special Provisions, Wage Decision(s) and Truck Rental Rate Schedule in all Subcontracts, agreements and purchase orders with lower tier Contractors.¹¹⁶ This requirement also applies to all lower tier subcontractors.

XVI. SITE OF WORK REQUIREMENTS

- A. **Poster Board.** The Prime Contractor must construct and display a poster board containing all required posters. The poster board must be accurate, legible, and accessible to all project Workers from the first day of Work until the project is one hundred percent (100%) complete.¹¹⁷ A poster board at an off-site location, or inside a construction trailer, does not meet this requirement.
- B. **How to Obtain a Poster Board.** The Prime Contractor may obtain the required posters and the necessary contact information that is required to be inserted on each poster by visiting the MnDOT LCU website.¹¹⁸
- C. **Employee Interviews.** The Contractor must permit representatives from the Department or other governmental entities¹¹⁹ to interview Workers at any time during working hours on the project.¹²⁰

XVII. CHILD LABOR

- A. **No Worker under the Age of 18.** No Worker under the age of 18 is allowed to perform Work on a Project Site, except pursuant to Section XVII B below.¹²¹

108 Minn. R. 5200.1106, Subpart 7(C)(1)

109 Minn. R. 5200.1106, Subpart 7(C)(4)

110 Minn. R. 5200.1106, Subpart 6, Minn. R. 5200.1106, Subpart 7(A)(3)

111 <http://www.dot.state.mn.us/const/labor/documents/Contractdocs/mtosubletform.pdf>

112 ALJ Findings of Fact, Conclusions of Law, and Recommendation, Conclusions (7), Case #12-3000-11993-2

113 Minn. R. 5200.1106, Subpart 3(A)

114 Minn. R. 5200.1106, Subpart 4(A)

115 Minn. R. 5200.1106, Subpart 4(B)

116 MnDOT Standard Specifications for Construction, Section 1801

117 Minn. Stat. 177.44, Subdivision 5

118 <http://www.dot.state.mn.us/const/labor/posterboards.html>

119 MnDLI, U.S. DOL., U.S. Department of Transportation, Federal Highways Administration

120 MnDOT Standard Specifications for Construction, Section 1511

121 Minn. R. 5200.0910, Subpart F; 29 CFR Part 570.2(a)(ii)

- B. Parental Supervision.** A Worker under the age of 18 may perform Work on a Project Site if all of the following criteria are met:
1. The Contractor (Employer) is not subject to FLSA.
 2. The Worker is employed in a corporation owned solely by one or both parents.
 3. The Worker is supervised by the parent(s).
 4. The Worker is not working in a hazardous occupation.¹²²
- C. Removal of Minor from Project.** The Engineer or inspector may remove a Worker that appears to be under the age of 18 from the Project Site until the Contractor or Worker can demonstrate proof of age and compliance with all applicable federal and state regulations.¹²³

XVIII. NON-COMPLIANCE AND ENFORCEMENT

- A. Case-by-Case Enforcement.** The Department has the authority to enforce the prevailing wage law on a case-by-case.¹²⁴
- B. Prime Contractor Responsible for Unpaid Wages.** The Prime Contractor will be held liable for any unpaid wages to its Workers or those of any lower tier Contractor.¹²⁵
- C. Enforcement Options.** If evidence shows that a Contractor has violated prevailing wage requirements, or these Special Provisions, the Department may, after written notice, implement one or more of the following:
1. **Withholding Payment.** The Department may withhold from the Prime Contractor payments relating to prevailing wage underpayments.¹²⁶
 2. **Non-Responsible Contractor.** The Department may reject a bid from a Prime Contractor that has received two (2) or more Determination Letters within a three (3) year period from the Department finding an underpayment by the Contractor to its own employees.¹²⁷
 3. **Default.** The Department may take the prosecution of the Work out of the hands of the Prime Contractor, place the Contractor in default, and terminate the Contract for failure to comply.¹²⁸
 4. **Suspension or Debarment.** The Department may refer violations and matters of non-compliance by a Contractor to the Minnesota Department of Administration for suspension or debarment proceedings.¹²⁹
 5. **County Attorney.** The Department may refer suspected criminal violations by Contractor to the appropriate local county attorney for prosecution.¹³⁰
 6. **Financial Penalties.** Any Contractor who violates the state prevailing wage law is guilty of a misdemeanor and may be fined not more than \$300 or imprisoned not more than 90 days or both. Each day that the violation continues is a separate offense.¹³¹ A Contractor may be fined up to \$1,000 for each failure to maintain records.¹³²
 7. **False Claims Act Violation.** All required payroll and certification reports are legal documents; knowing falsification of the documents by a Contractor may result in civil action and/or criminal prosecution¹³³ and may be grounds for debarment proceedings.¹³⁴
 8. **Compliance Order.** The Department may request that MnDLI issue a compliance order to a Contractor for violations of the state prevailing wage law. If the Contractor is found to

¹²² Minn. R. 5200.0930, Subpart 4

¹²³ Minn. Stat. 181A.06, Subdivision 4; MnDOT Standard Specifications for Construction, Section 1701

¹²⁴ See International Union of Operating Engineers, Local 49 v. MnDOT, No. C6-97-1582, 1998 WL 74281, at *2 (Minn. App. Feb. 24, 1998)

¹²⁵ MnDOT Standard Specifications for Construction, Section 1801

¹²⁶ MnDOT Standard Specifications for Construction, Section 1906

¹²⁷ Minn. Stat. 16C.285

¹²⁸ MnDOT Standard Specifications for Construction, Section 1808

¹²⁹ Minn. R. 1230.1150, Subpart 2(A)(4)

¹³⁰ Minn. Stat. 177.44, Subdivision 7

¹³¹ Minn. Stat. 177.44, Subdivision 6

¹³² Minn. Stat. 177.30(b)

¹³³ Minn. Stat. 15C.02; , Minn. Stat. 161.315; Minn. Stat. 177.32; Minn. Stat. 177.43, Subdivision 5, Minn. Stat. 609.63

¹³⁴ Minn. Stat. 161.315 and Minn. Stat. 609.63

have committed a violation, liquidated damages and other costs may be assessed against the Employer.¹³⁵

9. **Private Right of Action.** The Department may direct an employee to pursue a civil action in district court against its Employer for failure to comply with the proper payment of wages.¹³⁶ If the Employer is found to have committed a violation, liquidated damages and other costs may be assessed against the Employer.¹³⁷
10. **Fringe Benefits; Misdemeanor.** A Contractor that is obligated to deposit Fringe Benefit contributions on behalf of a Worker into a financially responsible trustee, third person, fund, plan, or program and fails to make timely contributions is guilty of a gross misdemeanor or other violations under federal law.¹³⁸

¹³⁵ Minn. Stat. 177.43, Subdivision 6a

¹³⁶ Minn. Stat. 177.27, Subdivision 8

¹³⁷ Minn. Stat. 177.27, Subdivision 10

¹³⁸ Minn. Stat. 181.74, Subdivision 1

**THE FOLLOWING APPENDICES ARE FOR
EXPLANATORY PURPOSES ONLY.
FOR SPECIFIC QUESTIONS, PLEASE CONTACT LCU.¹³⁹**

APPENDIX A

SALARIED WORKER WAGE COMPUTATION

Salaried Workers. In order to convert the Worker's salary into an hourly rate of pay, divide the employee's weekly, bi-weekly or monthly earnings by the total number of hours Worked (government and non-government), including overtime hours for the time period used.¹⁴⁰

$$\text{\$800.00 (weekly salary) / 40 (total weekly hours) = \$20.00}$$

$$\text{\$1,600.00 (bi-weekly salary) / 80 (total bi-weekly hours) = \$20.00}$$

$$\text{\$3,200.00 (monthly salary) / 160 (total monthly hours) = \$20.00}$$

APPENDIX B

FRINGE BENEFIT CREDIT

Fringe Benefit Credit Calculation. The Employer contributes monthly (\$600.00) for medical insurance on behalf of a Worker. In order to calculate the projected hourly credit that the Employer can take, the Employer should: (1) add the monthly contributions for each Worker, (2) multiply by twelve (12) months, and (3) divide the total cost of the benefit by the total hours worked (government and non-government)¹⁴¹ (see annual example below). Quarterly and monthly examples are also provided.

Annual: $(\$600.00) \times (12 \text{ months}) = \$7,200.00$
 $(\$7,200.00) / (2080 \text{ hours}) = \underline{\text{\$3.46 per hour credit}}$

Quarterly: $(\$600.00) \times (3 \text{ months}) = \$1,800.00$
 $(\$1,800.00) / (520 \text{ hours}) = \underline{\text{\$3.46 per hour credit}}$

Monthly: $(\$600.00) \times (1 \text{ month}) = \600.00
 $(\$600.00) / (173 \text{ hours}) = \underline{\text{\$3.47 per hour credit}}$

End of Year Self-Audit. At the end of the calendar year, the Contractor must conduct an audit to determine if the hourly fringe benefit credit taken for each Worker was accurate. The Contractor must calculate the total annual fringe benefits paid on behalf of each Worker and divide that amount by the total number of hours worked (government and non-government) by that Worker. If the hourly fringe benefit credit was less than what was reported on a CPR, the contractor must compensate the Worker the hourly difference, multiplied by the total hours worked under the Contract.

APPENDIX C

APPRENTICE RATE OF PAY

State Requirements. The Apprentice must be compensated according his/her level of progress, which is expressed as a percentage of the Journeyworker wage that is established in the program.

$$\text{Journeyworker Wage Established in Program} = \text{\$25.00}$$

$$\underline{\text{Apprentice Level of Progress} = 60\%}$$

$$(\text{\$25.00}) \times (.60) = \text{\$15.00}$$

¹³⁹ lcusupport.dot@state.mn.us or (651) 366-4238

¹⁴⁰ United States Department of Labor Field Operation Handbook, Section 15f08

¹⁴¹ United States Department of Labor Field Operation Handbook, Section 15f12

APPENDIX D

PREVAILING WAGE OVERTIME CALCULATION

Overtime Hourly Rate of Pay. Here is the formula to calculate the required minimum overtime.¹⁴²

$$OT = (PW * .5) + (HW) + (RF) + (F)$$

Definition of OT Acronyms

OT: overtime.

PW: the basic hourly prevailing wage rate established in a federal and/or state prevailing Wage Decision.

HW: hourly wage rate paid to a Worker.

RF: remaining fringe, which means the difference between the Contract hourly Fringe Benefit rate and the actual hourly Fringe Benefit rate paid by the Contractor to a third party on behalf of a Worker.

F: Fringe Benefit contributions that are bona-fide and contributed by an Employer to a third party on behalf of a Worker.

The Total Prevailing Wage Rate for a Worker is \$30.00, which is comprised of an hourly basic rate of \$20.00 and an hourly fringe rate of \$10.00. The table below includes various hourly basic and Fringe Benefit payments that a Contractor could potentially make to a Worker.

| OT CALCULATION FORMULA AND EXAMPLES | | | | |
|--|-----------------------------|--|---------------------------------------|-------------------------------------|
| OT = (PW * .5) + (HW) + (RF) + (F) | | | | |
| Hourly Wage Paid | Fringe Benefits Paid | Payment To Employee (PW * .5) + (HW) + (RF) | Fringe Payment + (F) | Total Payment = OT |
| \$ 20.00 | \$ 10.00 | (\$ 20.00 * .5) + (\$ 20.00) + (\$ 0.00) = \$ 30.00 | + \$ 10.00 | = \$ 40.00 |
| \$ 18.00 | \$ 12.00 | (\$ 20.00 * .5) + (\$ 18.00) + (\$ 0.00) = \$ 28.00 | + \$ 12.00 | = \$ 40.00 |
| \$ 22.00 | \$ 8.00 | (\$ 20.00 * .5) + (\$ 22.00) + (\$ 0.00) = \$ 32.00 | + \$ 8.00 | = \$ 40.00 |
| \$ 30.00 | \$ 0.00 | (\$ 20.00 * .5) + (\$ 30.00) + (\$ 0.00) = \$ 40.00 | + \$ 0.00 | = \$ 40.00 |
| \$ 24.00 | \$ 4.00 | (\$ 20.00 * .5) + (\$ 24.00) + (\$ 2.00) = \$ 36.00 | + \$ 4.00 | = \$ 40.00 |

Regarding the last example the Contractor would be required to pay an additional \$2.00 to the Worker, which is wages in lieu of fringe for a straight time hourly rate of \$26.00 not \$24.00.

A Contractor subject to the Fair Labor Standards Act (FLSA) may be subject to additional overtime compensation requirements.

END OF SECTION 00 7343

¹⁴² United States Department of Labor Field Operation Handbook, Section 15k

SECTION 00 7346 – PREVAILING WAGE RATES

- 1.01** The prevailing wage rates for the county/region in which the work is to be performed are included in this Section.

END OF SECTION 00 7346

MINNESOTA DEPARTMENT OF LABOR AND INDUSTRY PREVAILING WAGES FOR STATE FUNDED CONSTRUCTION PROJECTS



THIS NOTICE MUST BE POSTED ON THE JOBSITE IN A CONSPICUOUS PLACE

Construction Type: Commercial

County Number: 75

County Name: STEVENS

Effective: 2024-12-23 Revised: 2025-03-24

This project is covered by Minnesota prevailing wage statutes. Wage rates listed below are the minimum hourly rates to be paid on this project.

All hours worked in excess of eight (8) hours per day or forty (40) hours per week shall be paid at a rate of one and one half (1 1/2) times the basic hourly rate. *Note: Overtime pay after eight (8) hours on the project must be paid even if the worker does not exceed forty (40) hours in the work week.*

Violations should be reported to:

Department of Labor and Industry
Prevailing Wage Section
443 Lafayette Road N
St Paul, MN 55155
(651) 284-5091
DLI.PrevWage@state.mn.us

* Indicates that adjacent county rates were used for the labor class listed.

County: STEVENS (75)

| LABOR CODE AND CLASS | | EFFECT DATE | BASIC RATE | FRINGE RATE | TOTAL RATE |
|--|---|---|---------------|----------------|---------------|
| LABORERS (101 - 112) (SPECIAL CRAFTS 701 - 730) | | | | | |
| 101* | LABORER, COMMON (GENERAL LABOR WORK) | 2024-12-23 | 36.06 | 24.39 | 60.45 |
| 102* | LABORER, SKILLED (ASSISTING SKILLED CRAFT JOURNEYMAN) | 2024-12-23 | 36.06 | 24.39 | 60.45 |
| 103 | LABORER, LANDSCAPING (GARDENER, SOD LAYER AND NURSERY OPERATOR) | 2024-12-23 | 17.50 | 0.00 | 17.50 |
| 104 | FLAG PERSON | FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREVIEWWAGE@STATE.MN.US | | | |
| 105* | WATCH PERSON | 2024-12-23 | 31.00 | 1.35 | 32.35 |
| 106 | BLASTER | FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREVIEWWAGE@STATE.MN.US | | | |

| LABOR CODE AND CLASS | | EFFECT DATE | BASIC RATE | FRINGE RATE | TOTAL RATE |
|-------------------------------|--|--|------------|-------------|------------|
| 107* | PIPELAYER (WATER, SEWER AND GAS) | 2024-12-23 | 29.75 | 19.94 | 49.69 |
| 108 | TUNNEL MINER | FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREVWAGE@STATE.MN.US | | | |
| 109* | UNDERGROUND AND OPEN DITCH LABORER (EIGHT FEET BELOW STARTING GRADE LEVEL) | 2024-12-23 | 27.75 | 19.94 | 47.69 |
| 110* | SURVEY FIELD TECHNICIAN (OPERATE TOTAL STATION, GPS RECEIVER, LEVEL, ROD OR RANGE POLES, STEEL TAPE MEASUREMENT; MARK AND DRIVE STAKES; HAND OR POWER DIGGING FOR AND IDENTIFICATION OF MARKERS OR MONUMENTS; PERFORM AND CHECK CALCULATIONS; REVIEW AND UNDERSTAND CONSTRUCTION PLANS AND LAND SURVEY MATERIALS). THIS CLASSIFICATION DOES NOT APPLY TO THE WORK PERFORMED ON A PREVAILING WAGE PROJECT BY A LAND SURVEYOR WHO IS LICENSED PURSUANT TO MINNESOTA STATUTES, SECTIONS 326.02 TO 326.15. | +\$950,000 2024-12-23 | 26.51 | 17.69 | 44.20 |
| | | -\$950,000 2024-12-23 | 24.76 | 17.69 | 42.45 |
| 111 | TRAFFIC CONTROL PERSON (TEMPORARY SIGNAGE) | FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREVWAGE@STATE.MN.US | | | |
| SPECIAL EQUIPMENT (201 - 204) | | | | | |
| 201* | ARTICULATED HAULER | 2024-12-23 | 17.50 | 0.00 | 17.50 |
| 202* | BOOM TRUCK | FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREVWAGE@STATE.MN.US | | | |
| 203* | LANDSCAPING EQUIPMENT, INCLUDES HYDRO SEEDER OR MULCHER, SOD ROLLER, FARM TRACTOR WITH ATTACHMENT SPECIFICALLY SEEDING, SODDING, OR PLANT, AND TWO-FRAMED FORKLIFT | 2024-12-23 | 11.13 | 0.00 | 11.13 |

(EXCLUDING FRONT,
POSIT-TRACK, AND SKID STEER

| LABOR CODE AND CLASS | EFFECT DATE | BASIC RATE | FRINGE RATE | TOTAL RATE |
|--|--|------------|-------------|------------|
| LOADERS), NO EARTHWORK OR GRADING FOR ELEVATIONS | | | | |
| 204 OFF-ROAD TRUCK | FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREVWAGE@STATE.MN.US | | | |
| 205 PAVEMENT MARKING OR MARKING REMOVAL EQUIPMENT (ONE OR TWO PERSON OPERATORS); SELF-PROPELLED TRUCK OR TRAILER MOUNTED UNITS. | 2024-12-23 | 18.00 | 0.00 | 18.00 |
| HIGHWAY/HEAVY POWER EQUIPMENT OPERATOR | | | | |
| GROUP 2 * | 2024-12-23 | 40.00 | 0.00 | 40.00 |
| 306 GRADER OR MOTOR PATROL | | | | |
| 308 TUGBOAT 100 H.P. AND OVER WHEN LICENSE REQUIRED (HIGHWAY AND HEAVY ONLY) | | | | |
| GROUP 3 * | 2024-12-23 | 37.00 | 0.00 | 37.00 |
| 309 ASPHALT BITUMINOUS STABILIZER PLANT | | | | |
| 310 CABLEWAY | | | | |
| 312 DERRICK (GUY OR STIFFLEG)(POWER)(SKIDS OR STATIONARY) (HIGHWAY AND HEAVY ONLY) | | | | |
| 314 DREDGE OR ENGINEERS, DREDGE (POWER) AND ENGINEER | | | | |
| 316 LOCOMOTIVE CRANE OPERATOR | | | | |
| 320 TANDEM SCRAPER | | | | |
| 322 TUGBOAT 100 H.P AND OVER (HIGHWAY AND HEAVY ONLY) | | | | |
| GROUP 4 * | 2024-12-23 | 38.00 | 0.00 | 38.00 |
| 323 AIR TRACK ROCK DRILL | | | | |
| 324 AUTOMATIC ROAD MACHINE (CMI OR SIMILAR) (HIGHWAY AND HEAVY ONLY) | | | | |
| 325 BACKFILLER OPERATOR | | | | |
| 327 BITUMINOUS ROLLERS, RUBBER TIED OR STEEL DRUMMED (EIGHT TONS AND OVER) | | | | |
| 328 BITUMINOUS SPREADER AND FINISHING MACHINES (POWER), INCLUDING PAVERS, MACRO SURFACING AND MICRO SURFACING, OR SIMILAR TYPES (OPERATOR AND SCREED PERSON) | | | | |
| 329 BROKK OR R.T.C. REMOTE CONTROL OR SIMILAR TYPE WITH ALL ATTACHMENTS | | | | |
| 330 CAT CHALLENGER TRACTORS OR SIMILAR TYPES PULLING ROCK WAGONS, BULLDOZERS AND SCRAPERS | | | | |
| 331 CHIP HARVESTER AND TREE CUTTER | | | | |
| 332 CONCRETE DISTRIBUTOR AND SPREADER FINISHING MACHINE, LONGITUDINAL FLOAT, JOINT MACHINE, AND SPRAY MACHINE | | | | |
| 334 CONCRETE MOBIL (HIGHWAY AND HEAVY ONLY) | | | | |

| LABOR CODE AND CLASS | EFFECT DATE | BASIC RATE | FRINGE RATE | TOTAL RATE |
|----------------------|--|------------|-------------|------------|
| 335 | CRUSHING PLANT (GRAVEL AND STONE) OR GRAVEL WASHING, CRUSHING AND SCREENING PLANT | | | |
| 336 | CURB MACHINE | | | |
| 337 | DIRECTIONAL BORING MACHINE | | | |
| 338 | DOPE MACHINE (PIPELINE) | | | |
| 340 | DUAL TRACTOR | | | |
| 341 | ELEVATING GRADER | | | |
| 345 | GPS REMOTE OPERATING OF EQUIPMENT | | | |
| 347 | HYDRAULIC TREE PLANTER | | | |
| 348 | LAUNCHER PERSON (TANKER PERSON OR PILOT LICENSE) | | | |
| 349 | LOCOMOTIVE (HIGHWAY AND HEAVY ONLY) | | | |
| 350 | MILLING, GRINDING, PLANNING, FINE GRADE, OR TRIMMER MACHINE | | | |
| 352 | PAVEMENT BREAKER OR TAMPING MACHINE (POWER DRIVEN) MIGHTY MITE OR SIMILAR TYPE | | | |
| 354 | PIPELINE WRAPPING, CLEANING OR BENDING MACHINE | | | |
| 356 | POWER ACTUATED HORIZONTAL BORING MACHINE, OVER SIX INCHES | | | |
| 357 | PUGMILL | | | |
| 359 | RUBBER-TIRED FARM TRACTOR WITH BACKHOE INCLUDING ATTACHMENTS (HIGHWAY AND HEAVY ONLY) | | | |
| 360 | SCRAPER | | | |
| 361 | SELF-PROPELLED SOIL STABILIZER | | | |
| 362 | SLIP FORM (POWER DRIVEN) (PAVING) | | | |
| 363 | TIE TAMPER AND BALLAST MACHINE | | | |
| 365 | TRACTOR, WHEEL TYPE, OVER 50 H.P. WITH PTO UNRELATED TO LANDSCAPING (HIGHWAY AND HEAVY ONLY) | | | |
| 367 | TUB GRINDER, MORBARK, OR SIMILAR TYPE | | | |
| GROUP 5 * | 2024-12-23 | 33.00 | 0.00 | 33.00 |
| 370 | BITUMINOUS ROLLER (UNDER EIGHT TONS) | | | |
| 371 | CONCRETE SAW (MULTIPLE BLADE) (POWER OPERATED) | | | |
| 372 | FORM TRENCH DIGGER (POWER) | | | |
| 375 | HYDRAULIC LOG SPLITTER | | | |
| 376 | LOADER (BARBER GREENE OR SIMILAR TYPE) | | | |
| 377 | POST HOLE DRIVING MACHINE/POST HOLE AUGER | | | |
| 379 | POWER ACTUATED JACK | | | |
| 381 | SELF-PROPELLED CHIP SPREADER (FLAHERTY OR SIMILAR) | | | |
| 382 | SHEEP FOOT COMPACTOR WITH BLADE . 200 H.P. AND OVER | | | |
| 383 | SHOULDERING MACHINE (POWER) APS CO OR SIMILAR TYPE INCLUDING SELF-PROPELLED SAND AND CHIP SPREADER | | | |
| 384 | STUMP CHIPPER AND TREE CHIPPER | | | |
| 385 | TREE FARMER (MACHINE) | | | |
| GROUP 6 * | 2024-12-23 | 14.00 | 0.00 | 14.00 |

| LABOR CODE AND CLASS | | EFFECT DATE | BASIC RATE | FRINGE RATE | TOTAL RATE |
|--|---|-------------|------------|-------------|------------|
| 387 | CAT, CHALLENGER, OR SIMILAR TYPE OF TRACTORS, WHEN PULLING DISK OR ROLLER | | | | |
| 389 | DREDGE DECK HAND | | | | |
| 391 | GRAVEL SCREENING PLANT (PORTABLE NOT CRUSHING OR WASHING) | | | | |
| 393 | LEVER PERSON | | | | |
| 395 | POWER SWEEPER | | | | |
| 396 | SHEEP FOOT ROLLER AND ROLLERS ON GRAVEL COMPACTION, INCLUDING VIBRATING ROLLERS | | | | |
| 397 | TRACTOR, WHEEL TYPE, OVER 50 H.P., UNRELATED TO LANDSCAPING | | | | |
| COMMERCIAL POWER EQUIPMENT OPERATOR | | | | | |
| GROUP 1 * | | 2024-12-23 | 43.35 | 22.85 | 66.20 |
| 501 | HELICOPTER PILOT (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 502 | TOWER CRANE 250 FEET AND OVER (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 503 | TRUCK CRAWLER CRANE WITH 200 FEET OF BOOM AND OVER, INCLUDING JIB (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| GROUP 2 * | | 2024-12-23 | 48.53 | 26.88 | 75.41 |
| | | 2025-05-05 | 48.53 | 29.35 | 77.88 |
| 504 | CONCRETE PUMP WITH 50 METERS/164 FEET OF BOOM AND OVER (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 505 | PILE DRIVING WHEN THREE DRUMS IN USE (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 506 | TOWER CRANE 200 FEET AND OVER (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 507 | TRUCK OR CRAWLER CRANE WITH 150 FEET OF BOOM UP TO AND NOT INCLUDING 200 FEET, INCLUDING JIB (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| GROUP 3 * | | 2024-12-23 | 47.02 | 26.88 | 73.90 |
| | | 2025-05-05 | 47.02 | 29.35 | 76.37 |
| 508 | ALL-TERRAIN VEHICLE CRANES (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 509 | CONCRETE PUMP 32-49 METERS/102-164 FEET (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 510 | DERRICK (GUY & STIFFLEG) (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 511 | STATIONARY TOWER CRANE UP TO 200 FEET | | | | |
| 512 | SELF-ERECTING TOWER CRANE 100 FEET AND OVER MEASURED FROM BOOM FOOT PIN (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 513 | TRAVELING TOWER CRANE (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 514 | TRUCK OR CRAWLER CRANE UP TO AND NOT INCLUDING 150 FEET OF BOOM, INCLUDING JIB (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| GROUP 4 * | | 2024-12-23 | 40.58 | 21.70 | 62.28 |
| 515 | CRAWLER BACKHOE INCLUDING ATTACHMENTS (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 516 | FIREPERSON, CHIEF BOILER LICENSE (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 517 | HOIST ENGINEER (THREE DRUMS OR MORE) (COMMERCIAL CONSTRUCTION ONLY) | | | | |

| LABOR CODE AND CLASS | EFFECT DATE | BASIC RATE | FRINGE RATE | TOTAL RATE |
|----------------------|--|------------|-------------|------------|
| 518 | LOCOMOTIVE (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 519 | OVERHEAD CRANE (INSIDE BUILDING PERIMETER) (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 520 | TRACTOR . BOOM TYPE (COMMERCIAL CONSTRUCTION ONLY) | | | |
| GROUP 5 | 2024-12-23 | 39.17 | 21.70 | 60.87 |
| 521 | AIR COMPRESSOR 450 CFM OR OVER (TWO OR MORE MACHINES) (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 522 | CONCRETE MIXER (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 523 | CONCRETE PUMP UP TO 31 METERS/101 FEET OF BOOM | | | |
| 524 | DRILL RIGS, HEAVY ROTARY OR CHURN OR CABLE DRILL WHEN USED FOR CAISSON FOR ELEVATOR OR BUILDING CONSTRUCTION (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 525 | FORKLIFT (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 526 | FRONT END, SKID STEER 1 C YD AND OVER | | | |
| 527 | HOIST ENGINEER (ONE OR TWO DRUMS) (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 528 | MECHANIC-WELDER (ON POWER EQUIPMENT) (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 529 | POWER PLANT (100 KW AND OVER OR MULTIPLES EQUAL TO 100KW AND OVER) (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 530 | PUMP OPERATOR AND/OR CONVEYOR (TWO OR MORE MACHINES) (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 531 | SELF-ERECTING TOWER CRANE UNDER 100 FEET MEASURED FROM BOOM FOOT PIN (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 532 | STRADDLE CARRIER (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 533 | TRACTOR OVER D2 (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 534 | WELL POINT PUMP (COMMERCIAL CONSTRUCTION ONLY) | | | |
| GROUP 6 * | 2024-12-23 | 37.75 | 21.70 | 59.45 |
| 535 | CONCRETE BATCH PLANT (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 536 | FIREPERSON, FIRST CLASS BOILER LICENSE (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 537 | FRONT END, SKID STEER UP TO 1 C YD | | | |
| 538 | GUNITE MACHINE (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 539 | TRACTOR OPERATOR D2 OR SIMILAR SIZE (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 540 | TRENCHING MACHINE (SEWER, WATER, GAS) EXCLUDES WALK BEHIND TRENCHER | | | |
| GROUP 7 * | 2024-12-23 | 41.73 | 26.88 | 68.61 |
| | 2025-05-05 | 41.73 | 29.35 | 71.08 |
| 541 | AIR COMPRESSOR 600 CFM OR OVER (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 542 | BRAKEPERSON (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 543 | CONCRETE PUMP/PUMPCRETE OR COMPLACO TYPE (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 544 | FIREPERSON, TEMPORARY HEAT SECOND CLASS BOILER LICENSE (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 545 | OILER (POWER SHOVEL, CRANE, TRUCK CRANE, DRAGLINE, CRUSHERS AND MILLING MACHINES, OR OTHER SIMILAR POWER EQUIPMENT) (COMMERCIAL CONSTRUCTION ONLY) | | | |
| 546 | PICK UP SWEEPER (ONE CUBIC YARD HOPPER CAPACITY) (COMMERCIAL CONSTRUCTION ONLY) | | | |

| LABOR CODE AND CLASS | EFFECT DATE | BASIC RATE | FRINGE RATE | TOTAL RATE | |
|----------------------|---|------------|-------------|------------|-------|
| 547 | PUMP AND/OR CONVEYOR (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| GROUP 8 | FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREVIEWWAGE@STATE.MN.US | | | | |
| 548 | ELEVATOR OPERATOR (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 549 | GREASER (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| 550 | MECHANICAL SPACE HEATER (TEMPORARY HEAT NO BOILER LICENSE REQUIRED) (COMMERCIAL CONSTRUCTION ONLY) | | | | |
| TRUCK DRIVERS | | | | | |
| GROUP 1 * | 2024-12-23 | 28.00 | 0.84 | 28.84 | |
| 601 | MECHANIC . WELDER | | | | |
| 602 | TRACTOR TRAILER DRIVER | | | | |
| 603 | TRUCK DRIVER (HAULING MACHINERY INCLUDING OPERATION OF HAND AND POWER OPERATED WINCHES) | | | | |
| GROUP 2 | 2024-12-23 | 26.00 | 0.00 | 26.00 | |
| 604 | FOUR OR MORE AXLE UNIT, STRAIGHT BODY TRUCK | | | | |
| GROUP 3 | 2024-12-23 | 23.11 | 15.25 | 38.36 | |
| 605 | BITUMINOUS DISTRIBUTOR DRIVER | | | | |
| 606 | BITUMINOUS DISTRIBUTOR (ONE PERSON OPERATION) | | | | |
| 607 | THREE AXLE UNITS | | | | |
| GROUP 4 | 2024-12-23 | 16.00 | 0.00 | 16.00 | |
| 608 | BITUMINOUS DISTRIBUTOR SPRAY OPERATOR (REAR AND OILER) | | | | |
| 609 | DUMP PERSON | | | | |
| 610 | GREASER | | | | |
| 611 | PILOT CAR DRIVER | | | | |
| 612 | RUBBER-TIRED, SELF-PROPELLED PACKER UNDER 8 TONS | | | | |
| 613 | TWO AXLE UNIT | | | | |
| 614 | SLURRY OPERATOR | | | | |
| 615 | TANK TRUCK HELPER (GAS, OIL, ROAD OIL, AND WATER) | | | | |
| 616 | TRACTOR OPERATOR, UNDER 50 H.P. | | | | |
| SPECIAL CRAFTS | | | | | |
| 701 | HEATING AND FROST INSULATORS | 2024-12-23 | 53.19 | 31.95 | 85.14 |
| | | 2025-06-09 | 57.24 | 31.95 | 89.19 |

| LABOR CODE AND CLASS | | EFFECT DATE | BASIC RATE | FRINGE RATE | TOTAL RATE |
|----------------------|--|-------------|------------|-------------|------------|
| 702* | BOILERMAKERS | 2024-12-23 | 46.00 | 31.93 | 77.93 |
| 703* | BRICKLAYERS | 2024-12-23 | 41.73 | 29.01 | 70.74 |
| 704 | CARPENTERS | 2024-12-23 | 33.14 | 27.60 | 60.74 |
| | | 2025-01-01 | 33.14 | 27.60 | 60.74 |
| 705* | CARPET LAYERS (LINOLEUM) | 2024-12-23 | 27.15 | 17.38 | 44.53 |
| 706* | CEMENT MASONS | 2024-12-23 | 47.06 | 24.96 | 72.02 |
| 707 | ELECTRICIANS | 2024-12-23 | 46.00 | 30.00 | 76.00 |
| | | 2025-07-01 | 50.86 | 30.00 | 80.86 |
| 708* | ELEVATOR CONSTRUCTORS | 2024-12-23 | 59.95 | 44.53 | 104.48 |
| 709 | GLAZIERS | 2024-12-23 | 36.49 | 21.85 | 58.34 |
| 710* | LATHERS | 2024-12-23 | 13.00 | 0.00 | 13.00 |
| 712* | IRONWORKERS | 2024-12-23 | 44.85 | 35.72 | 80.57 |
| 714* | MILLWRIGHT | 2024-12-23 | 34.13 | 30.28 | 64.41 |
| 715 | PAINTERS (INCLUDING HAND BRUSHED, HAND SPRAYED, AND THE TAPING OF PAVEMENT MARKINGS) | 2024-12-23 | 31.63 | 25.28 | 56.91 |
| | | 2025-05-01 | 34.23 | 25.28 | 59.51 |
| 716 | PILEDRIIVER (INCLUDING VIBRATORY DRIVER OR EXTRACTOR FOR PILING AND SHEETING OPERATIONS) | 2024-12-23 | 27.46 | 16.11 | 43.57 |
| 717 | PIPEFITTERS . STEAMFITTERS | 2024-12-23 | 48.24 | 34.70 | 82.94 |
| 718* | PLASTERERS | 2024-12-23 | 45.98 | 24.45 | 70.43 |
| 719 | PLUMBERS | 2024-12-23 | 51.04 | 30.58 | 81.62 |
| | | 2025-05-01 | 54.79 | 30.58 | 85.37 |

| LABOR CODE AND CLASS | | EFFECT DATE | BASIC RATE | FRINGE RATE | TOTAL RATE |
|----------------------|---------------------------|-------------|------------|-------------|------------|
| 720* | ROOFER | 2024-12-23 | 41.81 | 21.93 | 63.74 |
| 721 | SHEET METAL WORKERS | 2024-12-23 | 48.15 | 29.12 | 77.27 |
| 722 | SPRINKLER FITTERS | 2024-12-23 | 42.94 | 26.67 | 69.61 |
| | | 2025-01-01 | 43.53 | 26.67 | 70.20 |
| 723* | TERRAZZO WORKERS | 2024-12-23 | 37.58 | 16.83 | 54.41 |
| 724* | TILE SETTERS | 2024-12-23 | 30.66 | 10.53 | 41.19 |
| 725 | TILE FINISHERS | 2024-12-23 | 20.50 | 1.50 | 22.00 |
| 726 | DRYWALL TAPER | 2024-12-23 | 32.41 | 24.43 | 56.84 |
| | | 2025-06-01 | 35.31 | 24.43 | 59.74 |
| 727* | WIRING SYSTEM TECHNICIAN | 2024-12-23 | 47.73 | 22.24 | 69.97 |
| | | 2025-07-01 | 51.07 | 23.52 | 74.59 |
| 728* | WIRING SYSTEMS INSTALLER | 2024-12-23 | 33.44 | 17.82 | 51.26 |
| | | 2025-07-01 | 35.78 | 18.73 | 54.51 |
| 729 | ASBESTOS ABATEMENT WORKER | 2024-12-23 | 39.86 | 24.61 | 64.47 |
| | | 2025-01-01 | 41.23 | 25.49 | 66.72 |
| | | 2025-05-01 | 41.23 | 25.99 | 67.22 |
| 730* | SIGN ERECTOR | 2024-12-23 | 34.69 | 19.88 | 54.57 |
| | | 2025-06-01 | 37.19 | 19.88 | 57.07 |

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SECTION 01 1000 - SUMMARY

PART 1 - GENERAL

1.1 SUMMARY

- A. Section Includes:
 - 1. Project information.
 - 2. Work covered by Contract Documents.
 - 3. Drawings and Project Manual
 - 4. Codes, Plan Review and Permits
 - 5. Access to site.
 - 6. Coordination with occupants.
 - 7. Work restrictions.
 - 8. Specification and drawing conventions.
 - 9. Appropriate workplace behavior.
- B. Related Requirements:
 - 1. Section 01 5000 "Temporary Facilities and Controls" for limitations and procedures governing temporary use of Owner's facilities.

1.2 SUBMITTALS

- A. Permits, Licenses, and Certificates: Submit copies of permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgments, correspondence, records, and similar documents, established for compliance with applicable building codes, laws, ordinances and environmental regulations bearing on performance of the Work.

1.3 PROJECT INFORMATION

- A. Project Location: Morris Maintenance Facility
51 Minnesota Drive
Morris, MN 56267
- B. Owner: State of Minnesota
 - 1. Owner's District Representative: Justin Knopf
 - 2. MnDOT Building Services (BSS) Project Manager: Rick Bolin
- C. Architect/Engineer of Record:
 - 1. Minnesota Department of Transportation
District 4

1.4 WORK COVERED BY CONTRACT DOCUMENTS

- A. The Work of Project is defined by the Contract Documents and consists of the following:
 - 1. Existing site bituminous pavement removal and reconstruction.
 - 2. New concrete drainage flume construction within existing site bituminous pavement area.
- B. Type of Contract.
 - 1. Project will be constructed under a single prime contract.

1.5 DRAWINGS AND PROJECT MANUAL FOR PROJECT CONSTRUCTION

- A. Mn/DOT will provide the Prime Contractor a complete PDF digital format of Drawings and Project Manual with incorporated addenda for their use.

- B. The Prime Contractor is responsible to provide subcontractors and suppliers with copies of the Drawings, Project Manual and addenda required for the construction of the project. All printing and distribution costs incurred shall not be borne by the Owner.

1.6 CODES, PLAN REVIEW AND PERMITS

- A. Contractor shall be Co-Permitee on the NPDES Permit required for this Project. Refer to General Conditions of the Contract for Construction, AIA A201 (State of Minnesota edition) Article 3.7.1.1.
- B. Minnesota State Building Code 1300.0120 Permits
Subp. 14 Responsibility: Every person who performs work for the installation or repair of building, structure, electrical, gas, mechanical, or plumbing systems for which this code is applicable, shall comply with the code. The person, firm or organization securing the permit is responsible for code compliance for the work being performed.

1.7 ACCESS TO SITE

- A. General: Contractor shall have limited use of Project site for construction operations as indicated by requirements of this Section.
 - 1. Use of Site: Limit use of Project site to work in areas indicated. Do not disturb portions of Project site beyond areas in which the Work is indicated.
 - 2. Driveways, Walkways and Entrances: Keep driveways, loading areas, and entrances serving premises clear and available to Owner, Owner's employees, and emergency vehicles at all times. Do not use these areas for parking or storage of materials.
 - a. Schedule deliveries to minimize use of driveways and entrances by construction operations.
 - b. Schedule deliveries to minimize space and time requirements for storage of materials and equipment on-site.

1.8 COORDINATION WITH OCCUPANTS

- A. Full Owner Occupancy: Owner will occupy site and existing adjacent building(s) during entire construction period with the exception of areas under construction. Cooperate with Owner during construction operations to minimize conflicts and facilitate Owner usage. Perform the Work so as to minimize interference with Owner's on-going operations. Maintain existing exits and utilities unless otherwise indicated.
 - 1. Maintain access to existing walkways, corridors, and other adjacent occupied or used facilities. Do not close or obstruct walkways, corridors, or other occupied or used facilities without written permission from Owner and approval of authorities having jurisdiction.
 - 2. Notify Owner not less than 72 hours in advance of activities that will affect Owner's operations.
- B. Owner's Limited Occupancy of Completed Areas of Construction: Owner reserves the right to occupy or to place and install equipment in completed portions of the Work, prior to Substantial Completion of the entire Work area, provided such occupancy or equipment does not interfere with completion of the Work. Such placement of equipment or limited occupancy shall not constitute acceptance of the total Work.
 - 1. MnDOT Project Manager will prepare a Partial Certificate of Substantial Completion for each specific portion of the Work, as required, prior to Owner acceptance of the entire completed Work.

1.12 WORK RESTRICTIONS

- A. Work Restrictions, General: Comply with restrictions on construction operations.
 - 1. Comply with limitations on use of public streets and with other requirements of authorities having jurisdiction.
- B. On-Site Work Hours: Limit work on site to normal business working hours of 7:00 AM to 5:00 PM, Monday through Friday, excepting observed State holidays, unless prior authorization on a case-by-case basis is given by MnDOT Project Manager.

1. Observed State holidays include New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Juneteenth, Fourth of July, Labor Day, Veterans' Day, Thanksgiving Day and Friday after and Christmas Day.
- C. Existing Utility Interruptions: Do not interrupt utilities serving facilities occupied by Owner or others unless permitted under the following conditions and then only after providing temporary utility services according to requirements indicated:
 1. Notify Owner and obtain written approval not less than seven (7) business days in advance of proposed utility interruptions.
 2. Schedule utility interruptions for Owner nonoperation periods (i.e. overnight or weekend).
- D. Noise, Vibration, and Odors: Coordinate operations that may result in high levels of noise and vibration, odors, or other disruptions to Owner's occupancy or other adjacent properties, with Owner.
 1. Notify Owner not less than 48 hours in advance of proposed disruptive operations.
 2. Obtain Owner's written permission before proceeding with disruptive operations.
- E. Nonsmoking Building: Smoking is not permitted within the building perimeters or outside within 25 feet of entrances, operable windows, or outdoor-air intakes.
- F. Controlled Substances: Use of controlled substances on Project site is not permitted.

1.13 SPECIFICATION AND DRAWING CONVENTIONS

- A. Specification Content: The Specifications use certain conventions for the style of language and the intended meaning of certain terms, words, and phrases when used in particular situations. These conventions are as follows:
 1. Division 01 General Requirements: The Work of all Sections in the Project Manual are subject to the requirements of Division 01.
 2. Specification requirements are required to be performed by Contractor unless specifically stated otherwise.
- B. Drawing Coordination: Requirements for materials and products identified on Drawings are described in detail in the Specifications. One or more of the following are used on Drawings to identify materials and products:
 1. Terminology: Materials and products are identified by the typical generic terms used in the individual Specifications Sections.
 2. Abbreviations: Materials and products are identified by abbreviations published as part of the U.S. National CAD Standard and as scheduled on Drawings.

1.14 APPROPRIATE WORKPLACE BEHAVIOR

- A. It is the Minnesota Department of Transportation's (MnDOT) policy to provide a workplace free from violence, threats of violence, harassment, and discrimination. MnDOT has established a policy of zero tolerance for violence in the workplace. Contractors who perform work on MnDOT construction projects, or local government entities or public agencies utilizing state funds on highway construction projects, shall maintain a workplace free from violence, harassment, and discrimination (See definitions, below).
- B. Definitions:
 1. Violence is the threatened or actual use of force which results in or has a high likelihood of causing fear, injury, suffering or death. Employees are prohibited from taking reprisal against anyone who reports a violent act or threat.
 2. Harassment is the conduct of one employee (toward another employee) which has the purpose or effect of 1) unreasonably interfering with the employee's work performance, and/or 2) creating an intimidating, hostile or offensive work environment. Harassment is not legitimate job-related efforts of supervisor to direct/evaluate an employee or to have an employee improve work performance.

- a. Unlawful discriminatory harassment is harassment which is based on these characteristics: race, color, creed, religion, national origin, sex, disability, age, marital status, status with regard to public assistance or sexual orientation. Managers, supervisors and employees shall not take disciplinary or retaliatory action against employees who make complaints of sexual harassment.
 - b. Sexual harassment is unwelcome sexual advances, requests for sexual favors, or sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature, when submission to that conduct or communication is 1) made a term or condition, either explicitly or implicitly, of obtaining employment; or 2) is used as a factor in decisions affecting an individual's employment; or 3) when that conduct or communication has the purpose or effect of substantially interfering with an individual's employment or creating an intimidating, hostile or offensive work environment, and the employer knows or should have known of the existence of the harassment and fails to take timely and appropriate action. Examples include but are not limited to insulting or degrading sexual remarks or conduct; threats, demands or suggestions that status is contingent upon toleration or acquiescence to sexual advances; displaying in the workplace sexually suggestive objects, publications or pictures, or retaliation against employees for complaining about the behavior cited above or similar behaviors.
 - c. General harassment is harassment which is not based on the above characteristics. Examples may include but are not limited to: physically intimidating behavior and/or threats of violence; use of profanity (swearing), vulgarity; ridiculing, taunting, belittling or humiliating another person; inappropriate assignments of work or benefits; derogatory name calling.
 3. Discrimination includes actions which cause a person, solely because of race, color, creed, religion, national origin, sex, disability, age, marital status, status with regard to public assistance or sexual orientation to be subject to unequal treatment.
- C. Prime Contractors who work on MnDOT projects shall ensure that their managers, supervisors, foremen/women and employees are familiar with MnDOT's policy on appropriate workplace behavior; and shall ensure that their subcontractors are familiarly with this policy. Managers, supervisors and foremen/women will respond to, document, and take appropriate action in response to all reports of violence, threats of violence, harassment or discrimination. Failure to comply with this policy may result in cancellation, termination or suspension of contracts or subcontracts currently held and debarment from further such contracts or subcontracts as provided by statute. If you need additional information or training regarding this policy, please contact the EEO Contract Management Office at (612) 297-1376.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 1000

SECTION 01 2500 - SUBSTITUTION PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements for substitutions.
- B. Related Requirements:
 - 1. Refer to AIA A201 "General Conditions" State of Minnesota edition as bound and herein, Article 3.4.2, "Labor and Materials" for additional requirements.
 - 2. Section 01 6000 "Product Requirements" for requirements for submitting comparable product submittals for products by listed manufacturers.

1.2 DEFINITIONS

- A. Substitutions: Changes in products, materials, equipment, and methods of construction from those required by the Contract Documents and proposed by Contractor.
 - 1. Substitutions for Cause: Changes proposed by Contractor that are required due to changed Project conditions, such as unavailability of product, regulatory changes, or unavailability of required warranty terms.
 - 2. **Substitutions for Convenience: Not allowed.**

1.3 ACTION SUBMITTALS

- A. Substitution Requests: Submit three copies of each request for consideration. Identify product or fabrication or installation method to be replaced. Include Specification Section number and title and Drawing numbers and titles.
 - 1. Submit request on attached Document 01 2501 Substitution Request Form.
 - 2. Documentation: Show compliance with requirements for substitutions and the following, as applicable:
 - a. Statement indicating why specified product or fabrication, or installation method cannot be provided, if applicable.
 - b. Coordination of information, including a list of changes or revisions needed to other parts of the Work and to construction performed by Owner and separate contractors that will be necessary to accommodate proposed substitution.
 - c. Detailed comparison of significant qualities of proposed substitutions with those of the Work specified. Include annotated copy of applicable Specification Section. Significant qualities may include attributes, such as performance, weight, size, durability, visual effect, sustainable design characteristics, warranties, and specific features and requirements indicated. Indicate deviations, if any, from the Work specified.
 - d. Product Data, including drawings and descriptions of products and fabrication and installation procedures.
 - e. Samples, where applicable or requested.
 - f. Certificates and qualification data, where applicable or requested.
 - g. List of similar installations for completed projects, with project names and addresses as well as names and addresses of architects and owners.
 - h. Material test reports from a qualified testing agency, indicating and interpreting test results for compliance with requirements indicated.
 - i. Research reports evidencing compliance with building code in effect for Project from ICC-ES, where applicable.
 - j. Detailed comparison of Contractor's construction schedule using proposed substitutions with products specified for the Work, including effect on the overall Contract Time. If specified product or method of construction cannot be provided within the Contract Time, include letter from manufacturer, on manufacturer's letterhead, stating date of receipt of purchase order, lack of availability, or delays in delivery.
 - k. Cost information, including a proposal of change, if any, in the Contract Sum.

- I. Contractor's certification that proposed substitution complies with requirements in the Contract Documents, except as indicated in substitution request, is compatible with related materials and is appropriate for applications indicated.
 - m. Contractor's waiver of rights to additional payment or time that may subsequently become necessary because of failure of proposed substitution to produce indicated results.
 - 3. Architect/Engineer's Action:
 - a. If necessary, Architect/Engineer will request additional information or documentation for evaluation within seven (7) days of receipt of a Request for Substitution.
 - b. Architect/Engineer will notify Contractor of acceptance or rejection of proposed substitution within fifteen (15) days of receipt of request, or within seven days of receipt of additional information or documentation, whichever is later.
 - c. Forms of Acceptance: Change Order, Construction Change Directive, or Architect's Supplemental Instructions for minor changes in the Work.
 - d. Use product specified if Architect/Engineer does not issue a decision on use of a proposed substitution within time allocated.
- 1.4 QUALITY ASSURANCE
 - A. Compatibility of Substitutions: Investigate and document compatibility of proposed substitution with related products and materials. Engage a qualified testing agency to perform compatibility tests recommended by manufacturers.
- 1.5 PROCEDURES
 - A. Coordination: Revise or adjust affected work as necessary to integrate work of the approved substitutions.
- 1.6 SUBSTITUTIONS
 - A. Substitutions for Cause: Submit requests for substitution immediately on discovery of need for change, but not later than 15 days prior to time required for preparation and review of related submittals.
 - 1. Conditions: Architect/Engineer and MnDOT Project Manager will consider Contractor's request for substitution when the following conditions are satisfied. If the following conditions are not satisfied, Architect/Engineer will return requests without action, except to record noncompliance with these requirements:
 - a. Requested substitution is consistent with the Contract Documents and will produce indicated results.
 - b. Substitution request is fully documented and properly submitted.
 - c. Requested substitution will not adversely affect Contractor's construction schedule.
 - d. Requested substitution has received necessary approvals of authorities having jurisdiction.
 - e. Requested substitution is compatible with other portions of the Work.
 - f. Requested substitution has been coordinated with other portions of the Work.
 - g. Requested substitution provides specified warranty.
 - h. If 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.
 - B. **Substitutions for Convenience: Not allowed.**

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 2500

DOCUMENT 01 2501 - SUBSTITUTION REQUEST FORM

Submit To: MnDOT Building Services
ATTN: Rick Bolin
richard.bolin@state.mn.us

THIS FORM IS NOT FOR BIDDING REQUESTS See 00 2123 "INSTRUCTIONS TO RESPONDERS."

| SECTION # | PARA # | ITEM | PROPOSED MANUFACTURER & PRODUCT |
|-----------|--------|------|---------------------------------|
|-----------|--------|------|---------------------------------|

REASON FOR SUBSTITUTION: _____

Substitutions for Cause: Changes proposed by Contractor that are required due to changed Project conditions such as unavailability of product, regulatory changes, or unavailability of required warranty terms.

ATTACH COMPLETE TECHNICAL DATA, LITERATURE, AND PRODUCT SAMPLES.

(as required by 01 2500, 1.3, A.2.)

- | | |
|--|---------|
| A. Does proposed PRODUCT substitution fail to satisfy in any respect the requirements specified for original product(s)? | [Y] [N] |
| B. Does PRODUCT substitution affect dimensions shown on drawings? | [Y] [N] |
| C. Does PRODUCT substitution affect other trades? | [Y] [N] |
| D. Does PRODUCT warranty differ from that specified? | [Y] [N] |

If you indicated "Yes" to any of the items above, attach thorough explanation on your Company letterhead as follows:

1. Explain any differences between proposed substitution and specified product.
2. Summarize experience with product and manufacturer in Project use.

The undersigned states that the function, appearance, and quality of the Proposed Substitution are equivalent or superior to the Specified Item. The undersigned agrees that if necessary to make this product perform as required, in the sole opinion of the Architect/Engineer of Record, all additional costs shall be paid by the contractor.

For use by Requester:

Submitted by: _____
Position: _____
Company: _____
Address: _____

Date: _____
Telephone: _____
Signature: _____

For use by Architect/Engineer of Record:

Accepted: _____
Accepted as Noted: _____
Not Accepted: _____
Received Too Late: _____
By: _____
Date: _____
Remarks: _____

The above signed represents:

1. Contractor's certification that proposed substitution complies with requirements in the Contract Documents except as indicated in substitution request, is compatible with related materials, and is appropriate for applications indicated.
2. Contractor's waiver of rights to additional payment or time that may subsequently become necessary because of failure of proposed substitution to produce indicated results.

SECTION 01 2600 - CONTRACT MODIFICATION PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements for handling and processing Contract modifications.
- B. Related Requirements:
 - 1. AIA A201 "General Conditions" State of Minnesota edition as bound herein, Article 7 "Changes in the Work."
 - 2. In A201 Article 7, and throughout the contract documents, whenever the term "Change Order" is used, it shall be substituted with the term "Supplemental Agreement".

1.2 MINOR CHANGES IN THE WORK

- A. Architect/Engineer will issue supplemental instructions authorizing minor changes in the Work, not involving adjustment to the Contract Sum or the Contract Time, on AIA Document G710, "Architect's Supplemental Instructions (ASI)."

1.3 PROPOSAL REQUESTS

- A. Refer to AIA A201 "General Conditions" State of Minnesota edition as bound herein, Article 7.3.7 "Changes in the Work" for additional requirements.
- B. Owner-Initiated Proposal Requests: Architect/Engineer will issue a detailed description of proposed changes in the Work that may require adjustment to the Contract Sum and/or the Contract Time. If necessary, the description will include supplemental or revised Drawings and Specifications.
 - 1. Work Change Proposal Requests issued by Architect/Engineer are not instructions either to stop work in progress or to execute the proposed change.
 - 2. Response: Within seven (7) days, after receipt of Proposal Request, submit a quotation estimating cost adjustments to the Contract Sum and the Contract Time necessary to execute the change.
- C. Contractor-Initiated Work Change Proposals: If latent or changed conditions require modifications to the Contract, Contractor may submit a request for a change to the Architect/Engineer and MnDOT Project Manager.
 - 1. Include a statement outlining reasons for the change and the effect of the change on the Work. Provide a complete description of the proposed change. Indicate the effect of the proposed change on the Contract Sum and the Contract Time.
 - 2. Comply with requirements in Section 01 2500 "Substitution Procedures" if the proposed change requires substitution of one product or system for product or system specified.
- D. Form of Proposal Responses
 - 1. Include an updated Contractor's construction schedule that indicates the effect of the change, including, but not limited to, changes in activity duration, start and finish times, and activity relationship. Use available total float before requesting an extension of the Contract Time.
 - 2. Include a list of quantities of products required or eliminated and costs of each, with total amount of purchases and credits to be made. If requested, furnish survey data to substantiate quantities.
 - 3. Indicate applicable taxes, delivery charges, equipment rental, and amounts of trade discounts.
 - 4. Include costs of labor directly attributable to the change. Refer to AIA A201 "General Conditions" State of Minnesota edition as bound herein, Article 7.3.4.1 for limits on labor costs.

5. Direct Labor: Shall be the calculated as the sum of Payroll Base Rate, Payroll Fringe Rate and Total Labor Burden for each classification of labor included in the Contact Modification. Provide documentation of State Unemployment rate and Liability and Worker Compensation rates for each classification of labor.
 - a. Payroll Base Rate paid as filed on Wage Reports, multiplied by hours.
 - b. Payroll Fringe Rate paid as filed on Wage Reports, multiplied by hours.
 - c. Total Labor Burden, multiplied by hours, is comprised of:
 - 1) Employer FICA (fixed) 7.65%
 - 2) Federal Unemployment
 - 3) Documented State Unemployment
 - 4) Documented Liability & Worker Compensation
 - d. Provide documentation of State Unemployment rate and Liability and Worker Compensation rates for each classification of labor.
6. Per-Diem Costs: Include Per-Diem Costs directly attributable to the change when the proposed change extends the previous established Contract Time, and the associated Direct Labor incurs additional expenditures for lodging and meals.
 - a. Per-Diem Costs do not include travel reimbursement. See "AIA Document A201-2017 General Conditions of the Contract for Construction" as amended by the State, Article 7.3.4.6.
 - b. A Contract Time extension shall be correctly documented and submitted with a change proposal request demonstrating justification for the proposed Per-Diem Cost.
 - c. The Contractor's recorded company policy regarding Per-Diem Cost reimbursements shall be submitted with all change requests that have such costs included.
 - d. The Contractor shall submit substantiating documentation demonstrating incurred Per-Diem Costs and Direct Labor reimbursement. Per-Diem Costs approved but not incurred shall be credited back to the Owner through a Supplemental Agreement.
7. Refer to AIA A201 "General Conditions" State of Minnesota edition as bound herein, Article 7.3.4.5 for limits on overhead and profit.
8. Proposal Response Form shall be prepared as follows:

Subcontractors':

| | |
|--|--------|
| Direct Material and Equipment | \$0.00 |
| 5% OH & P of Direct Material & Equipment | \$0.00 |
| Direct Labor | \$0.00 |
| 10% OH & P of Direct Labor | \$0.00 |
| Per Diem Costs | \$0.00 |

General Contractor's:

| | |
|--|--------|
| Direct Material and Equipment | \$0.00 |
| 5% OH & P of Direct Material & Equipment | \$0.00 |
| Direct Labor | \$0.00 |
| 10% OH & P of Direct Labor | \$0.00 |
| 5% OH & P of Subcontractors' Total | \$0.00 |
| Per Diem Costs | \$0.00 |

Total Cost Add/Deduct: \$0.00

(Note OH&P shall be applied to both adds and deducts)

Change to Contract Time: Add/Deduct () days

1.4 CHANGES AND SUPPLEMENTAL AGREEMENT PROCEDURES

- A. Owner reserves the right to review Change Proposal Costs for reasonableness based upon the latest edition of "Means Cost Estimating Data" and with applicable Wage Rate Requirements and Contractor's Payroll Reports.

- B. On Owner's acceptance of a Work Changes Proposal, the MnDOT Project Manager will bind it into a Supplemental Agreement Form for signature by the State and the Contractor.
 - 1. If more than one change proposal is accepted, they may be combined into a single Supplemental Agreement.
 - 2. Supplemental Agreements shall be executed and returned to the Owner no later than seven (7) days after receipt by the Contractor.

1.5 CONSTRUCTION CHANGE DIRECTIVE

- A. Construction Change Directive: Architect/Engineer or MnDOT Project Manager may issue a Construction Change Directive on AIA Document G714. Construction Change Directive shall instruct Contractor to proceed with a change in the Work, for subsequent inclusion in a Change Proposal.
 - 1. Construction Change Directive shall contain a complete description of change in the Work. It also shall designate method to be followed to determine change in the Contract Sum or the Contract Time.
- B. Documentation: Maintain detailed records on a time and material basis of work required by the Construction Change Directive.
 - 1. After completion of change, submit an itemized account and supporting data necessary to substantiate cost and time adjustments to the Contract.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 2600

SECTION 01 2900 - PAYMENT PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements necessary to prepare and process Applications for Payment.
- B. Related Requirements:
 - 1. Refer to AIA A201 "General Conditions", State of Minnesota edition as bound herein, Article 9 "Payment and Completion" for additional requirements.
 - 2. Section 01 2600 "Contract Modification Procedures" for administrative procedures for handling changes to the Contract.
 - 3. Section 01 3200 "Construction Progress Documentation" for administrative requirements governing the preparation and submittal of the Contractor's construction schedule.
 - 4. Minnesota Department of Transportation Specifications References
 - a. Wherever reference is made to a number preceded by "MnDOT" (Standards), provisions for measurement and payment shall not apply except as amended in Sections. All costs in connection therewith shall be included in the Contract Sum.

1.2 MANDATORY LABOR COMPLIANCE TRAINING

- A. Prior to submitting the first Application for Payment, Office Managers and/or payroll personnel of the Prime Contractor and all subcontractors shall attend training with the MnDOT Labor Compliance Liaison to review the correct procedures for submitting certified payrolls and related forms.

1.3 SCHEDULE OF VALUES

- A. Refer to AIA A201 "General Conditions", State of Minnesota edition as bound herein, Paragraph 9.2 "Schedule of Values" for additional requirements.
- B. Coordination: Coordinate preparation of the Schedule of Values with preparation of Contractor's construction schedule.
 - 1. Coordinate line items in the Schedule of Values with other required administrative forms and schedules, including the following:
 - a. Application for Payment forms with continuation sheets.
 - b. Submittal schedule.
 - c. Items required to be indicated as separate activities in Contractor's construction schedule.
 - 2. Submit the Schedule of Values to Architect/Engineer and MnDOT Project Manager no later than ten (10) days following the date on which the Contractor received written notice to proceed.
- C. Format and Content: Use Project Manual table of contents as a guide to establish line items for the Schedule of Values. Provide at least one line item for each Specification Section.
 - 1. Identification: Include the following Project identification on the Schedule of Values:
 - a. Project name and location.
 - b. Name of Architect/Engineer.
 - c. Architect/Engineer's project number.
 - d. Contractor's name and address.
 - e. Date of submittal.
 - 2. Arrange Schedule of Values consistent with format of AIA Document G703.
 - 3. Provide a breakdown of the Contract Sum in enough detail to facilitate continued evaluation of Applications for Payment and progress reports. Provide multiple line items for principal subcontract amounts in excess of five percent of the Contract Sum.

- a. Provide separate line items for Labor and for Materials for each part of the work.
 - b. Include separate line items under Contractor and principal subcontracts for project closeout requirements.
 - c. Include separate line items for permits, bonds, insurance and fees, temporary facilities and mobilization.
 - d. Provide line items for Delegated Design services costs.
4. Round amounts to nearest whole dollar; total shall equal the Contract Sum.
 5. Provide a separate line item in the Schedule of Values for each part of the Work where Applications for Payment may include materials or equipment purchased or fabricated and stored, but not yet installed.
 6. Provide separate line items in the Schedule of Values for initial cost of materials, for each subsequent stage of completion, and for total installed value of that part of the Work.
 7. Each item in the Schedule of Values and Applications for Payment shall be complete. Include total cost and proportionate share of general overhead and profit for each item.
 - a. Indicate Temporary facilities and other major cost items that are not direct cost of actual work-in-place as separate line items in the schedule of values.
 8. Schedule Updating: Update and resubmit the Schedule of Values before the next Applications for Payment when Supplementary Agreements result in a change in the Contract Sum.
 - a. Indicate costs of Supplementary Agreement items for each subcontractor or line item affected.

1.4 APPLICATIONS FOR PAYMENT

- A. Initial Application for Payment: Administrative actions and submittals that must precede or coincide with submittal of first Application for Payment include the following:
 1. Attendance at Labor Compliance Training
 2. Certifications of Sub-Contractor Notice of Prevailing Wage Requirements.
 3. List of subcontractors.
 4. Schedule of values.
 5. Contractor's construction schedule (preliminary if not final).
 6. Submittal schedule (preliminary if not final).
 7. List of Contractor's staff assignments.
 8. Copies of building permits.
 9. Copies of authorizations and licenses from authorities having jurisdiction for performance of the Work.
 10. Initial progress report.
 11. Report of preconstruction conference.
 12. Certificates of insurance and insurance policies.
- B. Applications for Payment shall be presented on the Request for Payment form; samples are included at the end of this Section. <http://www.dot.state.mn.us/maintenance/forms.html>
 1. Attach supporting documents consistent with format and tabulations of AIA Documents G702 and G703.
 2. Provide additional information as requested.
- C. Supporting Information:
 1. Applications for Payment shall be accompanied by Prevailing Wage Payroll Information as required for the period.
 2. Applications for Payment shall be accompanied by such information as required by the Owner to substantiate materials costs submitted for payment.
 3. Contractor's Construction Schedule Updating: Submit schedule representing actual construction progress and activities as of closing date of Application for Payment. Indicate Final Completion percentage for each activity.

- D. Each Application for Payment shall be consistent with previous applications and payments as certified by Architect/Engineer and paid for by Owner.
- E. The Initial Application for Payment, the Application for Payment at time of Substantial Completion, and the Final Application for Payment involve additional requirements. Refer to AIA A201 "General Conditions" State of Minnesota edit as bound herein Article 9 "Payments and Completion."
- F. Payment Application Times: Submit electronic format DRAFT Applications for Payment to MnDOT Project Manager for review by the day of the month agreed upon. The period covered by each Application for Payment is one month, ending on the day of the month agreed upon.
- G. Application Preparation: Complete every entry on form. Notarize and execute by a person authorized to sign legal documents on behalf of Contractor. Architect/Engineer and MnDOT Project Manager will return incomplete applications without action.
 - 1. Entries shall match data on the schedule of values and Contractor's construction schedule. Use updated schedules if revisions were made.
 - 2. Include amounts for work completed following previous Application for Payment, whether or not payment has been received. Include only amounts for work completed at time of Application for Payment.
 - 3. Include amounts of Supplementary Agreements executed before last day of construction period covered by application.
- H. Transmittal: Upon acceptance of the DRAFT Application for Payment, submit digitally signed and notarized FINAL copy of each Application for Payment to MnDOT Project Manager by a method ensuring receipt within 24 hours. Include all attachments required
 - 1. Transmit with transmittal form listing attachments and recording appropriate information about application.
- I. Waivers of Mechanic's Liens:
 - 1. With each Application for Payment, require and retain file copy of interim waivers of mechanic's lien from entities lawfully entitled to file a mechanic's lien arising out of the Contract and related to the Work covered by the payment the previous application.
 - a. Require and retain file copies partial waivers on each item for amount requested in previous application, after deduction for retainage, on each item.
 - b. When an application shows completion of an item, require and retain file copy of conditional final or full waivers.
 - 2. Refer to AIA A201 Article 9.6.4 regarding Owner's right to request evidence of payment.
- J. Application for Payment at Substantial Completion: After MnDOT Project Manager issues the Certificate of Substantial Completion, submit an Application for Payment showing 100 percent completion for portion of the Work claimed as substantially complete.
 - 1. Include documentation supporting claim that the Work is substantially complete and a statement showing an accounting of changes to the Contract Sum.
 - 2. This application shall reflect Certificates of Partial Substantial Completion issued previously for Owner occupancy of designated portions of the Work.
- K. Final Payment Application: After completing Project closeout requirements, submit final Application for Payment with releases and supporting documentation not previously submitted and accepted, including, but not limited, to the following:
 - 1. Evidence of completion of Project closeout requirements.
 - 2. Department of Revenue IC-134 forms covering all personnel employed on the Project.
 - 3. Insurance certificates for products and completed operations where required and proof that taxes, fees, and similar obligations were paid.
 - 4. Contractor's construction schedule (Preliminary and Final).
 - 5. Updated final statement, accounting for final changes to the Contract Sum.

6. Evidence that claims have been settled.
7. Final liquidated damages settlement statement.

1.5 COMPLIANCE WITH TAX LAW REQUIREMENTS

- A. The State cannot make final payment to the Contractor until the Contractor demonstrates that it and all its subcontractors have complied with the Income Tax withholding requirements of Minnesota Statutes, section 290.92 for wages paid for work performed under the contract.
 1. Every subcontractor working on the Project must submit an approved "Contractor Affidavit" from the Minnesota Department of Revenue to the Contractor before the Contractor can file its own Contractor Affidavit.
 2. To establish compliance, the Contractor must submit a "Contractor Affidavit" either online or in paper form (IC134) to the Minnesota Department of Revenue. The Contractor will receive written certification of compliance when the Department of Revenue determines that all withholding tax returns have been filed and all withholding taxes attributable to the work performed on the contract have been paid.
 3. The Contractor must provide this written certification to the MnDOT Project Manager to receive final payment.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 2900

ATTACHMENT: Owner's Required Form for Request for Payment.

Updated 11/18/2020

REQUEST FOR PAYMENT CONSTRUCTION CONTRACTS STATE OF MINNESOTA

Department of Transportation: Building Services
395 John Ireland Blvd, MS 715
St. Paul, MN 55155
ATTN: XXXXXX, Project Manager
Consultant email

To Be Completed by Vendor
MNDOT CONTRACT NO.: CAATS Number
MNDOT PROJECT NO.: TZ/TB-XXXXX
SWIFT PO #'s: 3000xxxxxx, '3000xxxxxx, '3000xxxxxx
SWIFT PO #'s: '3000xxxxxx, '3000xxxxxx, '3000xxxxxx
PROJECT NAME: XXXXX
LOCATION: XXXXX
CONTRACTOR: XXXXX
EMAIL: XXXXX
ADDRESS: XXXXX
PHONE: FAX:

To Be Completed by State

| | | |
|---------------------|--------------|-----------|
| Order No.: | Voucher No.: | |
| Vendor Invoice No.: | | |
| Payment Amount | Date: | Initials: |

FOR THE PERIOD FROM: TO INCLUSIVE
(check one) Partial Final REQUEST NO.:

CONTRACT SUMMARY: DO NOT FILL IN SHADED AREAS. THESE ARE CALCULATED FIELDS.

- 1- Original Contract Sum
- 2- Supplemental Agreements Approved To Date
- 3- Revised Contract Sum to date

| | |
|----|---|
| \$ | - |
| \$ | - |
| \$ | - |

STATUS OF ACCOUNT:

- 4- Value of completed work to date (total from column F on page 2)
- 5- Less 5% retained
- 6- Total earned less retained amount
- 7- Total amount previously approved (total from column D on page 2, less retainage)
- 8- Total amount due this estimate

| | |
|----|---|
| \$ | - |
| \$ | - |
| \$ | - |
| \$ | - |
| \$ | - |

| | |
|--|--|
| CERTIFICATION OF CONSULTANT ARCHITECT* In accordance with the Contract Documents, based on on-site observation and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to the payment Amount Certified. X Signature (Architect) Date | CERTIFICATION OF CONTRACTOR The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for work for which previous Certificates for Payment were issued and payment received from the Owner, and that current payment shown herein is now due. X Signature (Contractor) Date |
|--|--|

Electronic Pay Application Submittal Instructions

- 1- Complete the required MnDOT Request for Payment Form and, if applicable, the required contract supporting documentation
- 2- Sign the form and, if applicable, the required contract supporting documentation
- 3- Attach supporting documentation, as appropriate, and scan all documents as one PDF document, in the following order
 - 1) Completed, signed pay request form, 2) schedule of values, 3) project schedule, 4) supporting documentation
- 4- Email the entire PDF Pay Request to [MnDOT Project Manager](#)

*Certification of consultant architect is required only when MnDOT has hired a consultant architect or engineer

SAMPLE

SECTION 01 3100 - PROJECT MANAGEMENT AND COORDINATION

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative provisions for coordinating construction operations on Project including, but not limited to, the following:
 - 1. Requests for Information (RFIs).
 - 2. Project meetings.
- B. Related Requirements:
 - 1. Refer to AIA A201 "General Conditions", State of Minnesota edition as bound herein, Article 3 "Contractor" and Article 5.2 "Award of Subcontracts and Other Contracts for Portions of the Work" for additional requirements.
 - 2. Section 01 7300 "Execution" for procedures for coordinating general installation and field-engineering services, including establishment of benchmarks and control points.

1.2 DEFINITIONS

- A. RFI: Request from Owner, MnDOT Project Manager, Architect/Engineer, or Contractor seeking information required by or clarifications of the Contract Documents.

1.3 INFORMATIONAL SUBMITTALS

- A. Subcontract List: Prepare a written summary identifying individuals or firms proposed for each portion of the Work, including those who are to furnish products or equipment fabricated to a special design. Include the following information in tabular form:
 - 1. Name, address, and telephone number of entity performing subcontract or supplying products.
 - 2. Number and title of related Specification Section(s) covered by subcontract.

1.4 GENERAL COORDINATION PROCEDURES

- A. Coordination: Coordinate construction operations included in different Sections of the Specifications to ensure efficient and orderly installation of each part of the Work. Coordinate construction operations included in different Sections that depend on each other for proper installation, connection, and operation.
 - 1. Schedule construction operations in sequence required to obtain the best results where installation of one part of the Work depends on installation of other components, before or after its own installation.
 - 2. Coordinate installation of different components to ensure maximum performance and accessibility for required maintenance, service, and repair.
 - 3. Make adequate provisions to accommodate items scheduled for later installation.
- B. Prepare memoranda for distribution to each party involved, outlining special procedures required for coordination. Include such items as required notices, reports, and list of attendees at meetings.
- C. Administrative Procedures: Coordinate scheduling and timing of required administrative procedures with other construction activities to avoid conflicts and to ensure orderly progress of the Work.

1.5 REQUESTS FOR INFORMATION (RFIs)

- A. General: Immediately on discovery of the need for additional information, clarification or interpretation of the Contract Documents, Contractor shall prepare and submit an RFI in the form specified.

1. RFIs submitted by other entities controlled by Contractor will be returned by the Architect/Engineer with no response.
 2. Coordinate and submit RFIs in a prompt manner to avoid delays in Contractor's work or work of subcontractors.
- B. Content of the RFI: Include a detailed, legible description of item needing information or interpretation.
- C. Architect/Engineer's Action: Architect/Engineer will review each RFI, determine action required, and respond. Allow seven (7) working days for Architect/Engineer's response for each RFI. RFIs received by Architect/Engineer after 1:00 p.m. will be considered as received the following working day.
1. Incomplete RFI's or inaccurately prepared RFI's, will be returned without action.
 2. Architect/Engineer's action may include a request for additional information, in which case Architect/Engineer's time for response will date from time of receipt of additional information.
 3. Architect/Engineer's action on RFIs that may result in a change to the Contract Time or the Contract Sum may be eligible for Contractor to submit Change Proposal according to Section 01 2600 "Contract Modification Procedures."
 - a. If Contractor believes the RFI response warrants change in the Contract Time or the Contract Sum, notify MnDOT Project Manager in writing within ten (10) days of receipt of the RFI response.

1.6 PROJECT MEETINGS

- A. General: MnDOT Project Manager shall schedule and conduct meetings and conferences at Project site unless otherwise indicated.
1. Attendees: Inform participants and others involved, and individuals whose presence is required, of date and time of each meeting.
- B. Preconstruction Conference: MnDOT Project Manager will schedule and conduct a preconstruction conference before starting construction, at a time convenient to Owner, MnDOT Project Manager, and Architect/Engineer, but no later than 15 days after execution of the Agreement.
1. Attendees: Authorized representatives of Owner, MnDOT Project Manager, Architect/Engineer, Contractor and its superintendent; major subcontractors; suppliers; and other concerned parties shall attend the conference.
 - a. Participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work.
 - b. Representatives of Subcontractors shall attend the "Wage Rate and Labor Compliance" portion of the meeting.
 2. Agenda: Meeting participants will discuss items of significance that could affect progress.
 3. Minutes: MnDOT Project Manager will record and distribute meeting minutes.
- C. Preinstallation Conferences: Contractor shall conduct a preinstallation conference at the Project site before each construction activity indicated in the Specification Sections as requiring a preinstallation conference.
1. MnDOT Project Manager shall record significant conference discussions, agreements, and disagreements, including required corrective measures and actions.
 2. Attendees: Architect/Engineer, Contractor including installers, and representatives of manufacturers and fabricators involved in or affected by the installation and its coordination or integration with other materials and installations that have preceded or will follow, shall attend the meeting. Advise Architect/Engineer and MnDOT Project Manager of scheduled meeting dates.
 3. Agenda: Meeting participants will review progress of other construction activities and preparations for the particular activity under consideration.

4. Do not proceed with installation if the conference cannot be successfully concluded. Initiate whatever actions are necessary to resolve impediments to performance of the Work and reconvene the conference at earliest feasible date.
- D. Progress Meetings: MnDOT Project Manager shall conduct progress meetings at regular intervals.
1. Attendees: In addition to representatives of Owner, MnDOT Project Manager, and Architect/Engineer, each contractor, subcontractor, supplier, and other entity concerned with current progress or involved in planning, coordination, or performance of future activities shall be represented at these meetings. All participants at the meeting shall be familiar with Project and authorized to conclude matters relating to the Work.
 2. Agenda: Meeting participants will review and correct or approve minutes of previous progress meeting, review other items of significance that could affect progress including topics for discussion as appropriate to status of Project.
 - a. Contractor's Construction Schedule: Review progress since the last meeting. Determine whether each activity is on time, ahead of schedule, or behind schedule, in relation to Contractor's construction schedule. Determine how construction behind schedule will be expedited; secure commitments from parties involved to do so. Discuss whether schedule revisions are required to ensure that current and subsequent activities will be completed within the Contract Time.
 - 1) Review schedule for next period.
 - b. Review present and future needs of each entity present.
 3. Minutes: MnDOT Project Manager will record and distribute the meeting minutes to each party present and to parties requiring information.
 - a. Schedule Updating: Contractor shall revise Construction Schedule after each progress meeting where revisions to the schedule have been made or recognized. Issue revised schedule concurrently with the report of each meeting.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 3100

SECTION 01 3200 - CONSTRUCTION PROGRESS DOCUMENTATION

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements for documenting the progress of construction during performance of the Work, including the following:
 - 1. Contractor's construction schedule.
 - 2. Construction schedule updating reports.
 - 3. Daily construction reports.
 - 4. Differing Site condition reports.
 - 5. Storm Water Pollution Prevention Plan (SWPPP) Inspection Log.
- B. Related Requirements:
 - 1. Refer to AIA A201 "General Conditions" State of Minnesota edition as bound here in, Article 3 "Contractor" for additional requirements.

1.2 DEFINITIONS

- A. Activity: A discrete part of a project that can be identified for planning, scheduling, monitoring, and controlling the construction project. Activities included in a construction schedule consume time and resources.
 - 1. Critical Activity: An activity on the critical path that must start and finish on the planned early start and finish times.
 - 2. Predecessor Activity: An activity that precedes another activity in the network.
 - 3. Successor Activity: An activity that follows another activity in the network.
 - 4. Event: The starting or ending point of an activity.
- B. CPM: Critical path method, which is a method of planning and scheduling a construction project where activities are arranged based on activity relationships. Network calculations determine when activities can be performed and the critical path of Project.
- C. Critical Path: The longest connected chain of interdependent activities through the network schedule that establishes the minimum overall Project duration and contains no float.
- D. Float: The measure of leeway in starting and completing an activity.
 - 1. Float time is not for the exclusive use or benefit of either Owner or Contractor, but is a jointly owned, expiring Project resource available to both parties as needed to meet schedule milestones and Contract completion date.
 - 2. Free float is the amount of time an activity can be delayed without adversely affecting the early start of the successor activity.
 - 3. Total float is the measure of leeway in starting or completing an activity without adversely affecting the planned Project completion date.
- E. Permanent Enclosure: As determined by Architect/Engineer or MnDOT Project Manager, is the condition at which roofing is insulated and weathertight; exterior walls are insulated and weathertight; and all openings are closed with permanent construction or substantial temporary closures equivalent in weather protection to permanent construction.

1.3 INFORMATIONAL SUBMITTALS

- A. Format for Submittals: Submit required submittals in the following format:
 - 1. PDF electronic file.
- B. Contractor's Construction Schedule: Initial schedule, of size required to display entire schedule for entire construction period.

- C. Three-week Look-ahead Schedules: Submit at Construction Progress Meetings.
- D. Daily Construction Reports: Submit at weekly intervals.
- E. Storm Water Pollution Prevention Plan (SWPPP) Inspection Log: Submit at weekly intervals.

1.4 COORDINATION

- A. Coordinate Contractor's construction schedule with the schedule of values, list of subcontracts, submittal schedule, progress reports, payment requests, and other required schedules and reports.
 - 1. Secure time commitments for performing critical elements of the Work from entities involved.
 - 2. Coordinate each construction activity in the network with other activities and schedule them in proper sequence.

PART 2 - PRODUCTS

2.1 CONTRACTOR'S CONSTRUCTION SCHEDULE, GENERAL

- A. Refer to AIA 201 "General Conditions" Article 3.10 "Contractors Construction Schedule" for additional requirements.
- B. Time Frame: Prepare schedule to indicate Work from date established by the Notice to Proceed to include the date of Substantial Completion through the 1-year Correction Period.
- C. Activities: Treat each separate area as a separate numbered activity for each main element of the Work. Comply with the following:
 - 1. Procurement Activities: Include procurement process activities for the following long lead items and major items, requiring a cycle of more than 60 days, as separate activities in schedule. Procurement cycle activities include, but are not limited to, submittals, approvals, purchasing, fabrication, and delivery.
 - 2. Submittal Review Time: Include review and resubmittal times indicated in Section 01 3300 "Submittal Procedures" in schedule. Coordinate submittal review times in Contractor's
 - 3. Substantial Completion: Indicate completion equal to or in advance of date established for Substantial Completion and allow time for Architect/Engineer's and MnDOT Project Manager's administrative procedures necessary for certification of Substantial Completion.
 - 4. Substantial Completion Punch List and Final Completion: Include not more than forty-five (45) days for completion of punch list items and Final Completion.
- D. Constraints: Include constraints and work restrictions indicated in the Contract Documents and as follows in schedule and show how the sequence of the Work is affected.
 - 1. Work Restrictions: Show the effect of the following items on the schedule:
 - a. Coordination with existing construction.
 - b. Limitations of continued occupancies.
 - c. Uninterruptible services.
 - d. Use of premises restrictions.
 - e. Seasonal variations.
 - 2. Work Stages: Indicate important stages of construction for each major portion of the Work.
- E. Upcoming Work Summary: Prepare summary report indicating activities scheduled to occur or commence prior to submittal of next schedule update.
- F. Recovery Schedule: When periodic update indicates the Work is 15 or more calendar days behind the current approved schedule, submit a separate recovery schedule within 7 days indicating means by which Contractor intends to regain compliance with the schedule. Indicate

changes to working hours, working days, crew sizes, equipment required to achieve compliance, and date by which recovery will be accomplished.

G. Acknowledgment

1. Owner's acknowledgment of any schedule does not modify the Contract or constitute endorsement or validation by Owner of the Contractor's means, methods, logic, activity durations, or assumptions in creating the schedule.
 - a. Owner's acknowledgment of a schedule is not an "approval."
 - b. Review by Owner, MnDOT Project Manager or Owner's Project Representative of a portion of a schedule or an incomplete schedule submittal does not indicate acknowledgment of the entire schedule.
2. The responsibility for the validity and accuracy of schedules is solely the Contractor's. MnDOT's acknowledgment of schedules will not relieve the Contractor of its obligation or responsibility to submit complete and accurate information.
3. Failure to include any element of required Work in the Progress Schedule shall not relieve the Contractor from completing all Work necessary to meet the required Contract Time.
4. By acknowledgment of the schedule, Owner does not guaranty that the project can be performed or completed as scheduled.
 - a. If the Contractor, Owner, or MnDOT Project Manager, discover errors after the Department has acknowledged a schedule the Contractor shall correct the errors in the next schedule submission.
 - b. Owner's acknowledgment of a schedule does not waive any Contract requirements.

2.2 CONTRACTOR'S CONSTRUCTION SCHEDULE (GANTT CHART-CRITICAL PATH METHOD)

- A. Gantt-Chart Schedule: Submit a comprehensive, fully developed, horizontal, Gantt-chart-type, Contractor's construction schedule within 10 days of date established by the Notice to Proceed.
- B. Preparation: Indicate each significant construction activity separately. Identify first workday of each week with a continuous vertical line.
- C. The Construction Schedule shall indicate and track at minimum, but not limited to, the following:
 1. Baseline Schedule: The Baseline Schedule is the first accepted As-Planned schedule.
 2. Critical Path(s): The chain of continuous activities controlling a contractual obligate date.
 3. Two Week Look-Ahead Schedule: Schedule which spans a forward looking, rolling period of at least fourteen (14) calendar days.
 4. Working Schedule: The current Schedule.
 5. Impact Schedule: A schedule prepared to demonstrate the impacts of a change, or a proposed change from the last accepted working schedule. An accepted Impact Schedule becomes the current Working Schedule and is submitted via a Time Impact Analysis.
 6. Controlling Item of Work: The non-completed Activity(s) with the earliest start date that resides on the Critical Path(s) of the current Working Schedule.
 7. Critical Activity: An Activity with zero or negative Float.
 8. Date Constraint: A constraint placed on an activity that overrides or impedes logic and/or restricts or distributes float to control a network and/or sub-network of logic. The appropriate Date Constraint shall only be used on contractual obligate date(s).
 9. Milestone: A Milestone is a contractually obligated date and shall be designated with an Activity Type of Milestone. Milestones are the only activities allowed a date constraint. The Contractor may use Activity Coding to designate other activities of interest.
 10. Free Float: The number of days available to an activity without delaying the early start of a successor activity. Free Float is uniquely available to an activity.
 11. Total Float: Number of days by which a part of the Work in the Schedule may be delayed from its Early Dates without necessarily extending a Milestone. See also Float.
- D. Contract Modifications: For each proposed contract modification and concurrent with its submission, prepare a time-impact analysis.

2.3 REPORTS

- A. Provide electronic copies of each Report weekly to the Architect/Engineer and MnDOT Project Manager.
- B. Reports shall be kept onsite in hard copy accessible to the Owner, MnDOT Project Manager, MnDOT Labor compliance personnel, and the Architect/Engineer.
- C. Daily Construction Reports: Prepare a daily construction report recording the following information concerning events at Project site:
 - 1. List of subcontractors at Project site.
 - 2. Equipment at Project site.
 - 3. Material deliveries.
 - 4. High and low temperatures and general weather conditions, including presence of rain or snow.
 - 5. Accidents.
 - 6. Unusual events.
 - 7. Stoppages, delays, shortages, and losses.
 - 8. Emergency procedures.
 - 9. Orders and requests of authorities having jurisdiction.
 - 10. Services connected and disconnected.
- D. Differing Site Condition Reports: Immediately on discovery of a difference between site conditions and the Contract Documents, prepare and submit a detailed report. Submit with a Request for Information. Include a detailed description of the differing conditions, together with recommendations for changing the Contract Documents.
- E. Storm Water Pollution Prevention Plan (SWPPP) Inspection Logs: Prepare a weekly Inspection Log recording the information concerning events at Project site as required by the SWPPP.
 - 1. Inspection Logs shall be submitted on the Document 01 5718 "Storm Water Pollution Prevention Plan (SWPPP) Inspection Log" at the end of Section 01 5717 "Air, Land, and Water Pollution."

PART 3 - EXECUTION

3.1 CONTRACTOR'S CONSTRUCTION SCHEDULE

- A. Contractor's Construction Schedule Updating: At bi-weekly intervals, update schedule to reflect actual construction progress and activities. Issue schedule one week before each regularly scheduled progress meeting.
 - 1. Revise schedule immediately after each meeting or other activity where revisions have been recognized or made. Issue updated schedule concurrently with the report of each such meeting.
 - 2. Include a report with updated schedule that indicates every change, including, but not limited to, changes in logic, durations, actual starts and finishes, and activity durations.
 - 3. As the Work progresses, indicate Final Completion percentage for each activity.
- B. Distribution: Distribute copies of schedule to the Owner, MnDOT Project Manager, Architect/Engineer, testing and inspecting agencies, and other parties identified by Contractor with a need-to-know schedule responsibility.
 - 1. Post copies in Project meeting rooms and temporary field offices.
 - 2. When revisions are made, distribute updated schedules to the same parties and post in the same locations.

END OF SECTION 01 3200

SECTION 01 3233 - PHOTOGRAPHIC DOCUMENTATION

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements for the following:
 - 1. Periodic construction photographs
 - 2. Preconstruction photographs prior to commencement of the Work.
- B. Related Requirements:
 - 1. Section 01 7700 "Closeout Procedures" for submitting photographic documentation as Project Record Documents at Project closeout.
- C. Digital Photographs: Submit unaltered, original, full-size image files weekly.
 - 1. Identification: Date and time of day photograph was taken.
 - 2. File by location of photos, i.e. "Room 122B" or "North Elevation."

PART 2 - PRODUCTS

2.1 PHOTOGRAPHIC MEDIA

- A. Digital Images: Provide images in JPG format, with minimum size of 8 megapixels.

PART 3 - EXECUTION

3.1 CONSTRUCTION PHOTOGRAPHS

- A. General: Take photographs using the maximum range of depth of field to clearly show the Work.
- B. Digital Images: Submit digital images as originally recorded in a digital camera without alteration, manipulation, editing, or modifications using image-editing software.
 - 1. Date and Time: Include date and time in each image.
 - 2. Submit photo documentation to MnDOT Project Manager on a weekly basis.
 - 3. Maintain one (1) set of images accessible in the field office at Project site.
- C. Preconstruction Photographs: Before starting construction, take photographs of Project site and surrounding property including existing items to remain during construction, from different vantage points, and as directed by Architect/Engineer and MnDOT Project Manager.
 - 1. Mark excavation areas and Project construction limits before taking construction photographs.
 - 2. Take a minimum of 20 photographs of existing conditions and buildings on Project Site and/or adjoining property to accurately record physical conditions at start of construction.
- D. Periodic Construction Photographs:
 - 1. Take a minimum of ten (10) photographs daily and as required to show work activities in all portions of the Project.
 - 2. Select vantage points to show status of construction and progress since last photographs were taken.
 - 3. Take detailed close-up photos of critical work areas before work is covered.
- E. Final Completion Construction Photographs: Take a minimum of ten (10) color photographs after date of Substantial Completion for submission as Project Record Documents. Architect/Engineer and MnDOT Project Manager will inform photographer of desired vantage points.
- F. Additional Progress Photographs: Architect/Engineer and/or MnDOT Project Manager may request photographs in addition to periodic photographs specified.

1. Three days' notice will be given, where feasible. In time-critical situations, take additional photographs within 24 hours of request.
2. Additional photographs include, but are not limited to, the following:
 - a. Immediate follow-up when on-site events result in construction damage, injury, or losses.
 - b. Photographs taken at fabrication and storage locations away from Project site.

END OF SECTION 01 3233

SECTION 01 3300 - SUBMITTAL PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes requirements for the submittal schedule and administrative and procedural requirements for submitting Shop Drawings, Product Data, Samples, and other submittals.
 - 1. Submittals may be rejected that do not comply with requirements.
 - 2. Architect/Engineer will discard submittals received from sources other than through Contractor.
- B. Related Requirements:
 - 1. AIA A201 "General Conditions" State of Minnesota edition as bound herein, Article 3.12 "Shop drawings, Product Data and Samples".
 - 2. Section 01 3200 "Construction Progress Documentation" for submitting schedules and reports, including Contractor's construction schedule.
 - 3. Section 01 7839 "Project Record Documents" for submitting record Drawings, record Specifications, and record Product Data.

1.2 DEFINITIONS

- A. Action Submittals: Written and graphic information and physical samples that require Architect/Engineer's responsive action.
- B. Informational Submittals: Written and graphic information and physical samples that do not require Architect/Engineer's responsive action.

1.3 ACTION SUBMITTALS

- A. Submittal Schedule: Submit a schedule of submittals, arranged in chronological order by dates required by construction schedule.
 - 1. Include time required for review, ordering, manufacturing, fabrication, and delivery when establishing dates. Include additional time required for making corrections or revisions to submittals noted by Architect/Engineer and additional time for handling and reviewing submittals required by those corrections.
- B. Contractor's Submittal Stamp: Submit sample of stamp indicating contract language required.

1.4 SUBMITTAL ADMINISTRATIVE REQUIREMENTS

- A. Owner's Digital Data Files: Electronic copies of digital data files of the Contract Drawings may be provided on a per request basis by the Architect/Engineer and Owner for Contractor's use in preparing submittals.
 - 1. Upon request Architect/Engineer and Owner may furnish Contractor digital data drawing files of the Contract Drawings for use in preparing Shop Drawings.
 - a. Requests for digital data drawing files shall indicate limited and specific use of file for the Work of each trade requesting the files.
 - b. Contractor shall execute a data licensing agreement using AIA C106 "Digital Data Licensing Agreement" with MnDOT.
 - 2. Architect/Engineer and Owner make no representations as to the accuracy or completeness of digital data drawing files as they relate to the Contract Drawings.
 - 3. The Minnesota Department of Transportation makes no representation or warranties, express or implied, with respect to the reuse of the data provided herewith, regardless of its format or the means of its transmission.
 - a. There is no guarantee or representation to the user as to the accuracy, currency, suitability, or reliability of this data for any purpose. The user accepts the data "as is", and assumes all risks associated with its use.

- b. By acceptance of this data, the user agrees not to transmit this data or provide access to it or any part of it to another party unless the user shall include with the data a copy of this disclaimer.
 - c. The Minnesota Department of Transportation assumes no responsibility for actual or consequential damage incurred as a result of any user's reliance on this data.
- B. Coordination: Coordinate preparation and processing of submittals with performance of construction activities.
 - 1. Coordinate each submittal with fabrication, purchasing, testing, delivery, other submittals, and related activities that require sequential activity.
 - 2. Coordinate transmittal of different types of submittals for related parts of the Work so processing will not be delayed because of need to review submittals concurrently for coordination.
 - a. Architect/Engineer reserves the right to withhold action on a submittal requiring coordination with other submittals until related submittals are received.
- C. Processing Time: Allow time for submittal review, including time for resubmittals, as follows. Time for review shall commence on Architect/Engineer's receipt of submittal. No extension of the Contract Time will be authorized because of failure to transmit submittals enough in advance of the Work to permit processing, including resubmittals.
 - 1. Initial Review: Allow 15 days for initial review of each submittal. Allow additional time if coordination with subsequent submittals is required. Architect/Engineer will advise Contractor when a submittal being processed must be delayed for coordination.
 - 2. Intermediate Review: If intermediate submittal is necessary, process it in same manner as initial submittal.
 - 3. Resubmittal Review: Allow ten (10) days for review of each resubmittal.
- D. Options: Identify options requiring selection by Architect/Engineer.
- E. Deviations: Identify deviations from the Contract Documents on submittals.
- F. Resubmittals: Make resubmittals in same form and number of copies as initial submittal.
 - 1. Note date and content of previous submittal.
 - 2. Note date and content of revision in label or title block and clearly indicate extent of revision.
 - 3. Resubmit submittals until they are marked with acceptance notation from Architect/Engineer's action stamp.
 - 4. Where submittals are returned indicating "make corrections noted," provide electronic PDF copy bearing corrections.
- G. Distribution: Furnish copies of final submittals to manufacturers, subcontractors, suppliers, fabricators, installers, authorities having jurisdiction, and others as necessary for performance of construction activities. Show distribution on transmittal forms.
- H. Use for Construction: Retain complete copies of submittals on Project site. Use only final action submittals that are marked with approval notation from Architect/Engineer in the Work.
 - 1. No Work shall be installed until Submittals have received final acceptance.
- I. Electronic Submittals: Identify and incorporate information in each electronic submittal file as follows:
 - 1. Assemble complete submittal package into a single indexed file incorporating submittal requirements of a single Specification Section and transmittal form with links enabling navigation to each item.
 - 2. Name file with submittal number or other unique identifier, including revision identifier.
 - 3. Provide means for insertion to permanently record Contractor's review and approval markings and action taken by Architect/Engineer.
 - 4. Transmittal Form for Electronic Submittals: Use electronic form acceptable to Architect/Engineer and MnDOT Project Manager.

PART 2 - PRODUCTS

2.1 SUBMITTAL PROCEDURES

- A. General Submittal Procedure Requirements:
 - 1. All Submittals shall be reviewed, dated, and stamped by the General Contractor before being submitted to the Architect/Engineer. The Contractor stamp shall be an "approval stamp" accepting responsibility for conformance to the Contract Documents.
 - 2. Prior to submittal to Architect/Engineer the Contractor shall verify all dimensions, elevations, field conditions and quantities.
 - 3. Approved Submittals shall not take precedence over nor relieve the Contractor from compliance with the requirements of the Contract Documents without prior approvals indicated in A201 Article 3.12.8.
 - 4. Submittals returned with "make corrections noted" or similar directed revisions to otherwise accepted submittals: Provide new record copies with corrections and revisions included.
 - 5. Electronic Submittals: Submit electronic submittals as PDF electronic files with bookmarks via email or managed file transfer solution.
 - a. Architect/Engineer will return annotated file via same method of initial transmittal.
 - b. Annotate and retain one (1) copy of file as an electronic Project record document file.
 - 6. Action Submittals:
 - a. Submit electronic submittals as PDF electronic files with bookmarks via email or managed file transfer solution. Architect/Engineer will return annotated file via same method of initial transmittal.
 - 7. Informational Submittals:
 - a. Submit electronic submittals as PDF electronic files with bookmarks via email or managed file transfer solution. Architect/Engineer will not return copies.
 - 8. Certificates and Certifications Submittals: Provide a statement that includes signature of entity responsible for preparing certification. Certificates and certifications shall be signed by an officer or other individual authorized to sign documents on behalf of that entity.
 - a. Provide a digital signature with digital certificate on electronically submitted certificates and certifications where indicated.
- B. Product Data: Collect information into a single submittal for each element of construction and type of product or equipment.
 - 1. If information must be specially prepared for submittal because standard published data are not suitable for use, submit as Shop Drawings, not as Product Data.
 - 2. Mark each copy of each submittal to show which products and options are applicable.
 - 3. Submit Product Data concurrent with Samples.
 - 4. Submit Product Data in the following format:
 - a. Submit electronic submittals as PDF electronic files with bookmarks via email or managed file transfer solution. Architect/Engineer will return annotated file via same method of initial transmittal.
- C. Shop Drawings: Prepare Project-specific information, drawn accurately to scale. Do not base Shop Drawings on standard printed data or on reproductions of the Contract Documents except as permitted for licensed use as indicated above.
 - 1. Preparation: Fully illustrate requirements in the Contract Documents. Include the following information, as applicable:
 - a. Identification of products.
 - b. Schedules.
 - c. Compliance with specified standards.
 - d. Notation of coordination requirements.
 - e. Notation of dimensions established by field measurement.
 - f. Relationship and attachment to adjoining construction clearly indicated.
 - g. Certification and signature of professional engineer if specified.

2. Sheet Size: Except for templates, patterns, and similar full-size drawings, submit Shop Drawings on sheets at least 11x17 inches but not larger than 22 x 34 inches.
3. Submit Shop Drawings in the following format:
 - a. Submit electronic submittals as PDF electronic files with bookmarks via email or managed file transfer solution. Architect/Engineer will return annotated file via same method of initial transmittal.
- D. Samples: Submit Samples for review of kind, color, pattern, and texture for a check of these characteristics with other elements and for a comparison of these characteristics between submittal and actual component as delivered and installed.
- E. Contract Management Submittals
 1. Coordination Drawings Submittals: Comply with requirements specified in Section 01 3100 "Project Management and Coordination."
 2. Contractor's Construction Schedule: Comply with requirements specified in Section 01 3200 "Construction Progress Documentation."
 3. Application for Payment and Schedule of Values: Comply with requirements specified in Section 01 2900 "Payment Procedures," and in AIA A201 "General Conditions" State of Minnesota edit as bound herein, Article 9 "Payments and Completion".
 4. Test and Inspection Reports and Schedule of Tests and Inspections Submittals: Comply with requirements specified in Section 01 4000 "Quality Requirements."
 5. Closeout Submittals and Maintenance Material Submittals: Comply with requirements specified in Section 01 7700 "Closeout Procedures," and AIA A201 "General Conditions" State of Minnesota edit as bound herein, Article 9 "Payments and Completion".
- F. Quality Assurance Submittals
 1. Installer Certificates: Submit written statements on manufacturer's letterhead certifying that Installer complies with requirements in the Contract Documents and, where required, is authorized by manufacturer for this specific Project.
 2. Manufacturer Certificates: Submit written statements on manufacturer's letterhead certifying that manufacturer complies with requirements in the Contract Documents. Include evidence of manufacturing experience where required.
 3. Product Certificates: Submit written statements on manufacturer's letterhead certifying that product complies with requirements in the Contract Documents.
 4. Material Certificates: Submit written statements on manufacturer's letterhead certifying that material complies with requirements in the Contract Documents.
 5. Material Test Reports: Submit reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting test results of material for compliance with requirements in the Contract Documents.
 6. Product Test Reports: Submit written reports indicating that current product produced by manufacturer complies with requirements in the Contract Documents. Base reports on evaluation of tests performed by manufacturer and witnessed by a qualified testing agency, or on comprehensive tests performed by a qualified testing agency.
 7. Research Reports: Submit written evidence, from a model code organization acceptable to authorities having jurisdiction, that product complies with building code in effect for Project.
 8. Schedule of Tests and Inspections: Comply with requirements specified in Section 01 4000 "Quality Requirements."
 9. Preconstruction Test Reports: Submit reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting results of tests performed before installation of product, for compliance with performance requirements in the Contract Documents.
 10. Compatibility Test Reports: Submit reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting results of compatibility tests performed before installation of product. Include written recommendations for primers and substrate preparation needed for adhesion.

11. Field Test Reports: Submit written reports indicating and interpreting results of field tests performed either during installation of product or after product is installed in its final location, for compliance with requirements in the Contract Documents.

PART 3 - EXECUTION

3.1 CONTRACTOR'S REVIEW

- A. Action and Informational Submittals:
 1. Contractor shall review each submittal and check for coordination with other Work of the Contract and for compliance with the Contract Documents. Submittals not so reviewed, checked and stamped will be returned without action.
 2. Note corrections and field dimensions.
 3. Mark with approval stamp before submitting to Architect/Engineer.
- B. Approval Stamp: Stamp each submittal with a uniform, approval stamp.
 1. Include Project name and location, submittal number, Specification Section title and number, name of reviewer, date of Contractor's approval.
 2. Contractor's statement certifying that submittal has been reviewed, checked, and approved for compliance with the Contract Documents.

3.2 ARCHITECT/ENGINEER'S ACTION

- A. General: Architect/Engineer will not review submittals that do not bear Contractor's approval stamp and will return them without action.
- B. Action Submittals: Architect/Engineer will review each submittal, make marks to indicate corrections or revisions required, and return it. Architect/Engineer will stamp each submittal with an action stamp and will mark stamp appropriately to indicate action.
- C. Informational Submittals: Architect/Engineer will review each submittal and will not return it or will return it if it does not comply with requirements. Architect/Engineer will forward each submittal to appropriate party.
- D. Incomplete submittals are unacceptable, will be considered nonresponsive, and will be returned for resubmittal without review.
- E. Submittals provided which are not required by the Contract Documents may not be reviewed and may be discarded.

3.3 RECORDING AND MAINTENANCE

- A. Recording: Maintain one (1) copy of each submittal during the construction period for project record document purposes. Post changes and revisions to project record documents as they occur; do not wait until end of Project.
- B. Maintenance of Record Documents and Samples: Store record documents and Samples in the field office apart from the Contract Documents used for construction. Do not use project record documents for construction. Maintain record documents in good order and in a clean, dry, legible condition, protected from deterioration and loss. Provide access to project record documents for Owner, MnDOT Project Manager, and Architect/Engineer reference during normal working hours.

END OF SECTION 01 3300

SECTION 01 4000 - QUALITY REQUIREMENTS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements for quality assurance and quality control where indicated in Specification Sections.
- B. Testing and inspecting services, where indicated, are required to verify compliance with requirements specified or indicated. These services do not relieve Contractor of responsibility for compliance with the Contract Document requirements.
 - 1. Specified tests, inspections, and related actions do not limit Contractor's other quality-assurance and -control procedures that facilitate compliance with the Contract Document requirements.
 - 2. Requirements for Contractor to provide quality-assurance and -control services required by the Owner, MnDOT Project Manager, Architect/Engineer, or authorities having jurisdiction are not limited by provisions of this Section.
 - 3. Specific test and inspection requirements are not specified in this Section.

1.2 DEFINITIONS

- A. Quality-Assurance Services: Activities, actions, and procedures performed before and during execution of the Work to guard against defects and deficiencies and substantiate that proposed construction will comply with requirements.
- B. Quality-Control Services: Tests, inspections, procedures, and related actions during and after execution of the Work to evaluate that actual products incorporated into the Work and completed construction comply with requirements.
- C. Preconstruction Testing: Tests and inspections performed specifically for the Project before products and materials are incorporated into the Work, to verify performance or compliance with specified criteria.
- D. Product Testing: Tests and inspections that are performed by an NRTL, an NVLAP, or a testing agency qualified to conduct product testing and acceptable to authorities having jurisdiction, to establish product performance and compliance with specified requirements.
- E. Source Quality-Control Testing: Tests and inspections that are performed at the source, e.g., plant, mill, factory, or shop.
- F. Field Quality-Control Testing: Tests and inspections that are performed on-site for installation of the Work and for completed Work.
- G. Testing Agency: An entity engaged to perform specific tests, inspections, or both. Testing laboratory shall mean the same as testing agency.
- H. Installer/Applicator/Erector: Contractor or another entity engaged by Contractor as an employee, Subcontractor, or Sub-subcontractor, to perform a particular construction operation, including installation, erection, application, and similar operations.
- I. Experienced: When used with an entity or individual, "experienced" means having successfully completed a minimum of five previous projects similar in nature, size, and extent to this Project; being familiar with special requirements indicated; and having complied with requirements of authorities having jurisdiction.

1.3 CONFLICTING REQUIREMENTS

- A. Referenced Standards: If compliance with two or more standards is specified and the standards establish different or conflicting requirements for minimum quantities or quality levels, comply with the most stringent requirement. Refer conflicting requirements that are different, but apparently equal, refer to Architect/Engineer for a decision before proceeding.
- B. Minimum Quantity or Quality Levels: The quantity or quality level shown or specified shall be the minimum provided or performed. The actual installation may comply exactly with the minimum quantity or quality specified, or it may exceed the minimum within reasonable limits. To comply with these requirements, indicated numeric values are minimum or maximum, as appropriate, for the context of requirements. Refer uncertainties to Architect/Engineer for a decision before proceeding.

1.4 REPORTS AND DOCUMENTS

- A. Test and Inspection Reports: Prepare and submit certified written reports specified in other Sections.
- B. Permits, Licenses, and Certificates: For Owner's records, submit copies of permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgments, correspondence, records, and similar documents, established for compliance with standards and regulations bearing on performance of the Work.

1.5 QUALITY ASSURANCE

- A. General: Qualifications paragraphs in this article establish the minimum qualification levels required; individual Specification Sections specify additional requirements.
- B. Manufacturer Qualifications: A firm experienced in manufacturing products or systems similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.
- C. Installer Qualifications: A firm or individual experienced in installing, erecting, or assembling work similar in material, design, and extent to that indicated for this Project, whose work has resulted in construction with a record of successful in-service performance.
- D. Specialists: Certain Specification Sections require that specific construction activities shall be performed by entities who are recognized experts in those operations. Specialists shall satisfy qualification requirements indicated and shall be engaged for the activities indicated.
 - 1. Requirements of authorities having jurisdiction shall supersede requirements for specialists.
- E. Preconstruction Testing: Where testing agency is indicated to perform preconstruction testing for compliance with specified requirements for performance and test methods, comply with the following:
 - 1. Contractor responsibilities include the following:
 - a. Provide test specimens representative of proposed products and construction.
 - b. Submit specimens in a timely manner with sufficient time for testing and analyzing results to prevent delaying the Work.
 - c. When testing is complete, remove test specimens, assemblies, and mockups, unless indicated as acceptable to remain part of the work.
 - 2. Testing Agency Responsibilities: Submit a certified written report of each test, inspection, and similar quality-assurance service to Architect/Engineer with copy to Contractor and MnDOT Project Manager. Interpret tests and inspections and state in each report whether tested and inspected work complies with or deviates from the Contract Documents.

1.8 QUALITY CONTROL

- A. Owner Responsibilities: Where quality-control services are indicated as Owner's responsibility, MnDOT Project Manager will engage a qualified testing agency to perform these services.
 - 1. MnDOT Project Manager will furnish Contractor with names, addresses, and telephone numbers of testing agencies engaged and a description of types of testing and inspecting they are engaged to perform.
 - 2. Costs for retesting and reinspection of construction that replaces or is necessitated by work that failed to comply with the Contract Documents will be charged to Contractor and the Contract Sum will be adjusted by Supplemental Agreement.
- B. Contractor Responsibilities: Tests and inspections not explicitly assigned to Owner are Contractor's responsibility. Perform additional quality-control activities required to verify that the Work complies with requirements, whether specified or not.
 - 1. Where services are indicated as Contractor's responsibility, engage a qualified testing agency to perform these quality-control services.
 - 2. Contractor shall not employ same entity engaged by Owner, unless agreed to in writing by Owner.
 - 3. Notify testing agencies at least 24 hours in advance of time when Work that requires testing or inspecting will be performed.
 - 4. Where quality-control services are indicated as Contractor's responsibility, submit a certified written report, in duplicate, of each quality-control service.
 - 5. Testing and inspecting requested by Contractor and not required by the Contract Documents are Contractor's responsibility.
 - 6. Submit additional copies of each written report directly to authorities having jurisdiction, when they so direct.
- C. Retesting/Reinspection: Regardless of whether original tests or inspections were Owner's or Contractor's responsibility, provide quality-control services, including retesting and reinspection, for remedial construction that replaced Work that failed to comply with the Contract Documents.
- D. Coordination: Coordinate sequence of activities to accommodate required quality-assurance and -control services with a minimum of delay and to avoid necessity of removing and replacing construction to accommodate testing and inspecting.
 - 1. Schedule times for tests, inspections, obtaining samples, and similar activities.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 TEST AND INSPECTION LOG

- A. Test and Inspection Log: Prepare a record of tests and inspections. Include the following:
 - 1. Date test or inspection was conducted.
 - 2. Description of the Work tested or inspected.
 - 3. Date test or inspection results were transmitted to MnDOT Project Manager, Architect/Engineer, and Contractor.
 - 4. Identification of testing agency or special inspector conducting test or inspection.
- B. Maintain log at Project site. Post changes and revisions as they occur. Provide access to test and inspection log for Architect/Engineer's reference during normal working hours.

3.2 REPAIR AND PROTECTION

- A. General: On completion of testing, inspecting, sample taking, and similar services, repair damaged construction and restore substrates and finishes.

1. Provide materials and comply with installation requirements specified in other Specification Sections or matching existing substrates and finishes. Restore patched areas and extend restoration into adjoining areas with durable seams that are as invisible as possible. Comply with the Contract Document requirements for cutting and patching in Section 01 7300 "Execution."
- B. Protect construction exposed by or for quality-control service activities.
- C. Repair and protection are Contractor's responsibility, regardless of the assignment of responsibility for quality-control services.

END OF SECTION 01 4000

SECTION 01 4100 – REGULATORY REQUIREMENTS

PART 1 - GENERAL

1.1 SUMMARY

A. Section Include:

1. Regulatory requirements applicable to the Contract Documents and the Project and Work. This Section shall cover the general requirements for regulatory requirements pertaining to the Work and is supplementary to all other regulatory requirements mentioned or referenced elsewhere in the Contract Documents.
2. The applicable edition of all codes shall be that currently adopted at the time of issuance of permits by the authority having jurisdiction and shall include all modifications and additions adopted by that authority.
3. The applicable date of laws and ordinances shall be that of the date of performance of the Work affected by such laws and ordinances.
4. Specific reference in the Specifications to codes and regulations or to requirements of regulatory agencies shall mean the latest edition of each adopted by the regulatory agency in effect at the time of issuance of permits.
5. Minnesota State Building Code 1300.0120 Permits.
Subp. 14 Responsibility: *Every person who performs work for the installation or repair of building, structure, electrical, gas, mechanical, or plumbing systems for which this code is applicable, shall comply with the code. The person, firm or organization securing the permit is responsible for code compliance for the work being performed.*

B. Related Requirements:

1. Section 01 1000 "Summary."
2. Section 01 4200 "References."

1.2 REFERENCES TO REGULATORY REQUIREMENTS

- A. General: References to codes, standards or regulatory requirements made on Drawings or in Specifications are considered an integral part of Contract Documents as minimum requirements.
- B. All statutes, ordinances, laws, rules, codes, regulations, standards, and lawful orders of all public authorities who have jurisdiction of the Work, are hereby incorporated into these Contract Documents as if repeated in full herein and are intended to be included in any reference to Code or Building Code, unless otherwise specified, including, without limitation, the references below.
- C. Referenced Codes, laws, ordinances, rules, and regulations shall have full force and effect as though printed in full in these Specifications. Contractor is assumed to be and shall be familiar with these requirements, including having readily available access to these requirements.
- D. References on the Drawings or in the Specifications to "code", "Code" or "building code" similar terms, not otherwise identified, shall mean the codes specified above, together with all additions, amendments, changes, and interpretations adopted by code authorities of the jurisdiction having authority over the Project.
- E. Contractor shall conform to all applicable federal, state, and local codes, laws, ordinances, rules and regulations, whether or not referenced in the Contract Documents. Compliance with applicable regulatory requirements is the responsibility of the Contractor.

1.3 PRECEDENCE

- A. Where specified requirements differ from the requirements of applicable codes, ordinances and standards, the more stringent requirements shall take precedence with no change in Contract Sum or Contract Time.

- B. Where Contract Documents require or describe products or execution of better quality, higher standard or greater size than required by applicable codes, ordinances and standards, Contract Documents shall take precedence so long as such increase is legal.
- C. Where no requirements are identified on Contract Documents, comply with all requirements of applicable codes, ordinances and standards of governing authorities have jurisdiction.

1.4 INDUSTRY STANDARDS

- A. Application:
 - 1. The industry standards applicable to the Work are indicated in appropriate individual sections of these Specifications, either by their names and the names of the trade associations, government agencies or other producers of standards, or by well-recognized abbreviations thereof.
 - a. Comply with standards in effect at the date of these Contract Documents, except where a standard or specific date or edition is indicated.
 - 2. Any material specified by reference to the number, symbol, or title of a specific standard, such as Commercial Standard, Federal Specifications, American Society for Testing Materials, a trade association standard, or other similar standard, shall comply with the requirements in the latest revision thereof and any amendments or supplements thereto in effect on the date of Contract Documents.
 - 3. The standard referred to, except as modified in the Contract Documents, shall have full force and effect as though printed in these Specifications.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 APPLICABLE LAWS, ORDINANCES AND REGULATIONS

- A. Work shall be accomplished in conformance with all applicable laws, ordinances, rules and regulations of federal, state, and local governmental agencies and jurisdictions having authority over the Project.
- B. Work shall be accomplished in conformance with all rules and regulations of public utilities and utility districts.
- C. Where such laws, ordinances, rules and regulations require more care or greater time to accomplish Work, or require better quality, higher standards or greater size of products, Work shall be accomplished in conformance to such requirements with no change to the Contract Time and Contract Sum, except where changes in laws, ordinances, rules and regulations occur subsequent to time of issuance of permits.
- D. No Change to the Contract Time and Contract Sum shall be considered for any change in any applicable federal, state or local code or regulation if similar language existed in an alternate applicable regulation in force at the time of issuance of permits.
- E. Contractor shall not allow design or construction of any conditions wherein the finished Work will not comply with current applicable codes. No Change to the Contract Time and Contract Sum shall be considered for the Work correction of any Work not complying with code.

END OF SECTION 01 4100

SECTION 01 4200 - REFERENCES

PART 1 - GENERAL

1.1 ORDER OF PRECEDENCE

- A. Each of the Contract Documents is an essential part of the Contract, and a requirement occurring in one is as binding as though occurring in all. The Contract Documents are intended to be complementary and to describe and provide for a complete contract. In the event of a conflict among the Contract Documents, the order of precedence shall be as set forth below:
 - 1. Supplemental Agreements and Contract amendments.
 - 2. The Supplementary Conditions of this Contract.
 - 3. The A201 General Conditions of this Contract.
 - 4. The Requirements of Division 01.
 - 5. The Minnesota Department of Transportation, Standard Specifications for Construction, latest edition.
- B. Notwithstanding the foregoing, in the event of conflicting requirements involving any requirement established by reference contained in the Contract Documents, Owner shall have the right to determine, in its sole discretion, which requirement applies.
 - 1. Contractor shall request, in writing, Owner's determination respecting the order of precedence among conflicting provisions promptly upon becoming aware of any such conflict. Owner shall promptly make a determination in writing.
 - 2. Contractor shall assume the risk and expense of proceeding to make any adjustment prior to Owner's written determination.
- C. Referenced Standards: If compliance with two or more standards is specified and the standards establish different or conflicting requirements for minimum quantities or quality levels, comply with the most stringent requirement. Refer conflicting requirements that are different, but apparently equal, to Architect/Engineer for a decision before proceeding.

1.2 DEFINITIONS

- A. General: Basic Contract definitions are included in the Conditions of the Contract.
- B. "Approved": When used to convey Architect/Engineer's action on Contractor's submittals, applications, and requests, "approved" is limited to Architect/Engineer's duties and responsibilities as stated in the Conditions of the Contract.
- C. "Directed": A command or instruction by Architect/Engineer and/or MnDOT Project Manager. Other terms including "requested," "authorized," "selected," "required," and "permitted" have the same meaning as "directed."
- D. "Indicated": Requirements expressed by graphic representations or in written form on Drawings, in Specifications, and in other Contract Documents. Other terms including "shown," "noted," "scheduled," and "specified" have the same meaning as "indicated."
- E. "Regulations": Laws, ordinances, statutes, and lawful orders issued by authorities having jurisdiction, and rules, conventions, and agreements within the construction industry that control performance of the Work.
- F. "Furnish": Supply and deliver to Project site, ready for unloading, unpacking, assembly, installation, and similar operations.
- G. "Install": Operations at Project site including unloading, temporarily storing, unpacking, assembling, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations.

H. "Provide": Furnish and install, complete and ready for the intended use.

I. "Project Site": Space available for performing construction activities. The extent of Project site is shown on Drawings and may or may not be identical with the description of the land on which Project is to be built.

1.3 MINNESOTA DEPARTMENT OF TRANSPORTATION SPECIFICATIONS

A. Wherever reference is made to a number preceded by "MnDOT", the referenced Standard shall mean that numbered section of the Department of Transportation specifications, latest edition.

1. Provisions for measurement and payment shall not apply except as amended herein. All costs in connection therewith shall be included in the lump sum price bid for the work.

1.4 INDUSTRY STANDARDS

A. Applicability of Standards: Unless the Contract Documents include more stringent requirements, applicable construction industry standards have the same force and effect as if bound or copied directly into the Contract Documents to the extent referenced. Such standards are made a part of the Contract Documents by reference.

B. Publication Dates: Comply with standards in effect as of date of the Contract Documents unless otherwise indicated.

C. Copies of Standards: Each entity engaged in construction on Project should be familiar with industry standards applicable to its construction activity. Copies of applicable standards are not bound with the Contract Documents.

1. Where copies of standards are needed to perform a required construction activity, obtain copies directly from publication source.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 4200

SECTION 01 5000 - TEMPORARY FACILITIES AND CONTROLS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes requirements for protection materials, temporary facilities and equipment, wildlife habitat protection, temporary utilities, security and protection facilities, and moisture and mold control.
- B. Related Requirements:
 - 1. Refer to AIA A201 "General Conditions", State of Minnesota edit as bound herein, Article 3 "Contractor" paragraph 3.7.1.1 "National Pollutant Discharge Elimination System" for additional requirements.
 - 2. Section 01 1000 "Summary."
 - 3. Section 01 5717 "Air, Land, and Water Pollution."

1.2 USE CHARGES

- A. General: Installation, removal of, and use charges for temporary facilities maintained until Substantial Completion shall be included in the Contract Sum unless otherwise indicated. Allow other entities to use temporary services and facilities without cost, including, but not limited to, MnDOT Project Manager, Architect/Engineer, occupants of project, testing agencies, and authorities having jurisdiction.
- B. Water and Sewer Service from Existing System: Water from Owner's existing water system is available for use without metering and without payment of use charges. Provide connections and extensions of services as required for construction operations.
- C. Electric Power Service from Existing System: Electric power from Owner's existing system is available for use without metering and without payment of use charges. Provide connections and extensions of services as required for construction operations.

1.3 INFORMATIONAL SUBMITTALS

- A. Site Plan: Show temporary facilities, utility hookups, staging areas, and parking areas for construction personnel.

1.4 QUALITY ASSURANCE

- A. Electric Service: Comply with NECA, NEMA, and UL standards and regulations for temporary electric service. Install service to comply with NFPA 70.
- B. Tests and Inspections: Arrange for authorities having jurisdiction to test and inspect each temporary utility before use. Obtain required certifications and permits.
- C. Accessible Temporary Egress: Comply with applicable provisions in the U.S. Architectural & Transportation Barriers Compliance Board's ADA-ABA Accessibility Guidelines and ICC/ANSI A117.1.

1.5 PROJECT CONDITIONS

- A. Temporary Use of Permanent Facilities: Engage Installer of each permanent service to assume responsibility for operation, maintenance, and protection of each permanent service during its use as a construction facility before Owner's acceptance of such permanent service regardless of previously assigned responsibilities.

PART 2 - PRODUCTS

2.1 TEMPORARY FACILITIES

- A. Common-Use Field Meeting Room:
 - 1. Owner will provide Meeting Room in a designated area of the existing Facility.
 - 2. Contractor to provide and equip Field Office of sufficient size to accommodate construction personnel and office activities.
- B. Storage and Fabrication Sheds: Provide sheds sized, furnished, and equipped to accommodate materials and equipment for construction operations.

2.2 EQUIPMENT

- A. Fire Extinguishers: Portable, UL rated; with class and extinguishing agent as required by locations and classes of fire exposures.

PART 3 - EXECUTION

3.1. INSTALLATION, GENERAL

- A. Locate facilities where they will serve Project adequately and result in minimum interference with performance of the Work. Relocate and modify facilities as required by progress of the Work.
 - 1. Locate facilities to limit site disturbance as specified in Section 01 1000 "Summary."
- B. Provide each facility ready for use when needed to avoid delay. Do not remove until facilities are no longer needed or are replaced by authorized use of completed permanent facilities.

3.2. WILDLIFE HABITAT PROTECTION

- A. Discovery of Nesting Birds and Roosting Bats.
 - 1. If during the course of the Project between April 15 and October 31, the Contractor encounters Nesting Birds or Roosting Bats, the Contractor shall immediately stop work in the vicinity, notify the MnDOT Project Manager and request suspension of work in the vicinity of the discovery area.
 - 2. A documented inspection and evaluation will be conducted prior to the resumption of work. The Contractor shall not resume work in the suspected area without authorization by the MnDOT Project Manager.

3.3. TEMPORARY UTILITY INSTALLATION

- A. General: Connect to existing service.
 - 1. Arrange with utility company, Owner, and MnDOT Project Manager for time when service can be interrupted, if necessary, to make connections for temporary services.
 - 2. Provide MnDOT Project Manager and facility users minimum five (5) days' notice prior to interruption of Service.
- B. Sewers and Drainage: Provide temporary utilities to remove effluent lawfully.
 - 1. Connect temporary sewers to municipal system as directed by authorities having jurisdiction.
- C. Water Service: Install water service and distribution piping in sizes and pressures adequate for construction.
 - 1. Connect to Owner's existing water service facilities. **[Provide meters as required.]** Clean and maintain water service facilities in a condition acceptable to Owner. At Substantial Completion, restore these facilities to condition existing before initial use.
- D. Sanitary Facilities:

1. Provide temporary toilets, wash facilities, and drinking water for use of construction personnel.
 - a. Comply with requirements of authorities having jurisdiction for type, number, location, operation, and maintenance of fixtures and facilities.
 - b. Temporary Sanitary Facilities shall be equipped with secondary containment as required by SWPPP.
 - E. Electric Power Service: Provide electric power service and distribution system of sufficient size, capacity, and power characteristics required for construction operations.
 1. Connect temporary service to Owner's existing power source, as directed by Owner. Maintain equipment in a condition acceptable to Owner.
 - F. Lighting: Provide temporary lighting with local switching that provides adequate illumination for construction operations, observations, inspections, and traffic conditions.
 1. Install and operate temporary lighting that fulfills security and protection requirements without operating entire system.
 - I. Phone Directory: Post a list of important telephone numbers within field office and Project work area(s) for use by on-site workers.
 - J. Provide Project site superintendent with cellular telephone for use when away from field office.
- 3.4. SUPPORT FACILITIES INSTALLATION
- G. General: Comply with the following:
 1. Maintain support facilities until Architect/Engineer schedules Substantial Completion inspection. Remove before Substantial Completion. Personnel remaining after Substantial Completion may be permitted to use permanent facilities, under conditions acceptable to Owner.
 2. Coordinate and maintain existing egress requirements from existing occupied facilities with Owner, MnDOT Project Manager, authority having jurisdiction, and as indicated on Drawings.
 3. Maintain existing handicap accessibility requirements and coordinate with Owner and authority having jurisdiction for temporary handicap accessibility accommodations.
 - H. Temporary Use of Permanent Roads and Paved Areas:
 1. Provide dust-control treatment on partially completed permanent roads and paved areas (aggregate base only) that is nonpolluting and non-tracking. Reapply treatment as required to minimize dust.
 2. Recondition base after temporary use, including removing contaminated material, regrading, proof rolling, compacting, and testing.
 3. Coordinate installation of final course of permanent hot-mix asphalt pavement with Owner. Repair hot-mix asphalt base-course pavement before installation of final course.
 - I. Traffic Controls: Comply with requirements of authorities having jurisdiction.
 1. Protect existing site improvements to remain including curbs, pavement, monitoring wells, and utilities.
 2. Maintain access for fire-fighting equipment and access to fire hydrants.
 - J. Parking: Use designated areas of Owner's existing parking areas for construction personnel.
 - K. Dewatering Facilities and Drains: Comply with requirements of authorities having jurisdiction, SWPPP, and NPDES Permit. Maintain Project site, excavations, and construction free of water.
 1. Dispose of rainwater in a lawful manner that will not result in flooding Project or adjoining properties or endanger permanent Work or temporary facilities.
 - L. Project Signs: Provide Project signs as indicated. Unauthorized signs are not permitted.

1. Temporary Signs: Provide other signs as indicated and as required to inform public and individuals seeking entrance to Project.
 - a. Provide temporary, directional signs for construction personnel and visitors.
 - b. Install Labor Compliance and Wage Rates signs and posters as required by Section 00 7343 "Prevailing Wage Requirements for State Funded Projects."
 2. Maintain and touch-up signs so they are legible at all times.
- M. Waste Disposal Facilities:
1. Comply with requirements specified in Section 01 7419 "Construction Waste Management and Disposal."
 2. Comply with progress cleaning requirements in Section 01 7300 "Execution."
 3. Provide waste-collection containers in sizes adequate to handle waste from construction operations. Comply with requirements of authorities having jurisdiction.
- 3.5. SECURITY AND PROTECTION FACILITIES INSTALLATION
- A. Protection of Existing Facilities: Protect existing vegetation, equipment, structures, utilities, and other improvements at Project site and on adjacent properties, except those indicated to be removed or altered. Repair damage to existing facilities.
 - B. Environmental Protection: Provide protection, operate temporary facilities, and conduct construction as required to comply with environmental regulations and that minimize possible air, waterway, and subsoil contamination or pollution or other undesirable effects.
 - C. Tree and Plant Protection:
 1. Install temporary fencing located as indicated or outside the drip line of trees to protect vegetation from damage from construction operations.
 2. Protect tree root systems from damage, flooding, and erosion.
 - D. Barricades, Warning Signs, and Lights: Comply with requirements of authorities having jurisdiction for erecting structurally adequate barricades, including warning signs and lighting.
- 3.6. OPERATION, TERMINATION, AND REMOVAL
- A. Supervision: Enforce strict discipline in use of temporary facilities. To minimize waste and abuse, limit availability of temporary facilities to essential and intended uses.
 - B. Maintenance: Maintain facilities in good operating condition until removal.
 1. Maintain operation of temporary enclosures, heating, cooling, humidity control, ventilation, and similar facilities on a 24-hour basis where required to achieve indicated results and to avoid possibility of damage.
 - C. Temporary Facility Changeover: Do not change over from using temporary security and protection facilities to permanent facilities until Substantial Completion.
 - D. Termination and Removal: Remove each temporary facility when need for its service has ended, when it has been replaced by authorized use of a permanent facility, or no later than Substantial Completion. Complete or, if necessary, restore permanent construction that may have been delayed because of interference with temporary facility. Repair damaged Work, clean exposed surfaces, and replace construction that cannot be satisfactorily repaired.
 1. Materials and facilities that constitute temporary facilities are property of Contractor. Owner reserves right to take possession of Project identification signs.
 2. At Substantial Completion, repair, renovate, and clean permanent facilities used during construction period. Comply with final cleaning requirements specified in Section 01 7700 "Closeout Procedures."

END OF SECTION 01 5000

SECTION 01 5717 – AIR, LAND, AND WATER POLLUTION

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes:
 - 1. General protection of air, land, and water.
 - 2. Discovery of contaminated materials and regulated wastes.
 - 3. Stormwater management and erosion control.
 - 4. Compensation and time extension.
 - 5. Withholding of payment for non-compliance.
- B. Related Requirements:
 - 1. Refer to AIA A201 "General Conditions", State of Minnesota edit as bound herein, Article 3 "Contractor" paragraph 3.7.1.1 "National Pollutant Discharge Elimination System" for additional requirements.
 - 2. Section 01 1000 "Summary."
- C. Contractor shall be Co-Permittee on the NPDES Permit required for this Project.

1.2 DEFINITIONS

- A. Areas of Environmental Sensitivity: An area on the Project that the Contract has identified to need special protection to habitat, wildlife, recreational or cultural resources/properties, ecological significance, geological features, visual quality, or its sensitivity to disturbance.
- B. Best Management Practices (BMP): Management practices for erosion prevention, sediment control, dust control, and water quality that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.
- C. NPDES Permit: The general permit issued by the MPCA that authorizes the discharge of storm water associated with construction activity under the National Pollutant Discharge Elimination System Program.
- D. Permanent Erosion Control Measures: Soil-erosion control measures such as curbing, culvert aprons, riprap, flumes, sodding, erosion mats, and other means to minimize erosion on the completed Work while establishing permanent perennial vegetation.
- E. Site Management Plan: Contractor provided written amendment to the SWPPP that indicates the means and methods the Contractor will use for performing Work in or adjacent to Waters of the State.
- F. Storm Water Pollution Prevention Plan (SWPPP): Comprehensive Plan required by the NPDES Permit to identify sources of pollution and describe BMPs to reduce pollution from stormwater runoff at a construction site. The Contract Documents are a part of the SWPPP that includes both temporary and permanent BMP's during construction.
- G. Waters of the State: Surface and underground waters, except surface waters that are not confined but are spread and diffused over the land. Waters of the State includes boundary and inland waters.

1.3 USE CHARGES

- A. General: Installation, removal of, and use charges for temporary facilities and control measures maintained until Substantial Completion and final ground cover establishment shall be included in the Contract Sum unless otherwise indicated.

1.4 ACTION SUBMITTALS

- A. Site Management Plan:
 - 1. Provide written amendments to the SWPPP indicating means and methods for performing Work.
 - 2. Show compliance with requirements of SWPPP, NPDES Permit, General Permit, or authorities having jurisdiction, whichever is more stringent.
 - 3. Show temporary facilities, utility hookups, staging areas, and parking areas for construction personnel.

1.5 INFORMATIONAL SUBMITTALS

- A. Quality Control Plan.
- B. Storm Water Pollution Prevention Plan Inspection Logs.

1.6 PROJECT CONDITIONS

- A. Contractor shall visit the Project Site, examine, and make note all conditions as to character and extent of work involved. No additional compensation will be allowed for conditions visible by inspection or determinable by the construction documents.
- B. Conduct work in a neat and orderly manner without creating a nuisance to adjacent properties or to the Owner's ongoing operations.
- C. Traffic: Minimize interference with adjoining roads, street, walks, and other adjacent occupied or used facilities during implementation operations.
- D. Utility Locator Service: Notify utility locator service for area where Project is located before implementing SWPPP measures.
- E. Do not commence site clearing, grading, or new construction operations until appropriate temporary erosion and sedimentation control measures are in place.
- F. Restore any damage to adjacent properties, streets, landscaping, and the like caused by operations of this Section, all to original condition without additional cost to Owner.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 GENERAL PROTECTION OF AIR, LAND, AND WATER

- A. Schedule and conduct construction operations in a manner that will prevent, control, minimize, or abate pollution of air, land, and water in accordance with the Contract Documents, SWPPP, and the NPDES Permit.
- B. Comply with all applicable laws, ordinances, regulations, orders, and decrees pertaining to erosion control, sediment control, and storm water management affecting the conduct of the Work.
 - 1. Obtain all necessary permits and permits for temporary work not shown in the Contract Documents.
- C. When required the Contractor shall obtain a National Pollution Discharge Elimination System (NPDES) Permit prior to starting any on site work.
 - 1. No on-site work shall be initiated until the Minnesota Pollution Control Agency (MPCA) letter of coverage has been posted on-site by the Contractor, or the Contractor verifies to

the MnDOT Project Manager that the permit has been applied for by registered mail to the MPCA a minimum of seven (7) days before starting soil disturbing activities.

- D. Air Protection:
 - 1. Implement practical actions to minimize air pollution that may harm public health, safety, or the environment. Comply with Best Management Practices to control dust appropriate for the Work.
- E. Land Protection:
 - 1. Implement practical actions to minimize erosion on the Project. MnDOT will consider all areas within the grading construction limits that grading and grubbing operations have rendered natural vegetation ineffective as being exposed to proposal erosion until final topsoil finishing and turf is established.
- F. Water Protection:
 - 1. The Contractor shall take all necessary precautions and actions to prevent pollution of ground, flowing, and impounded waters of the State with any particulate or liquid matter that may be harmful to fish and wildlife or detrimental to public use of the water.
 - 2. The Contractor shall prevent siltation and the resulting turbidity of public waters.
 - a. Water containing sediment shall not be allowed to enter public waters until its sediment content has been reduced by filtration, settlement, or other means to the appropriate standard.
 - b. When turbidity standards have not been established for a public water, the turbidity of the effluent shall be not more than that of the water into which it is discharged or will eventually enter.
 - 3. Wash water or waste from concrete mixing operations shall not be allowed to enter streams or public waters.
 - 4. The Contractor shall avoid the crossing streams and rivers with haul equipment unless approved by a regulatory authority.
 - a. Temporary bridging shall be used where an appreciable number of crossings are necessary.
 - b. The Contractor shall clear the crossings of temporary construction as soon as practical after the purpose has been fulfilled.
 - 5. The Contractor shall prevent water pollution from haul roads, work platforms, temporary earth fills, and other temporary construction used to facilitate bridge or culvert construction. Restore all temporary crossing to pre-existing conditions or as shown on plans.

3.2 DISCOVERY OF CONTAMINATED MATERIALS AND REGULATED WASTES

- A. If during the course of the Project, the Contractor unexpectedly encounters any of the following conditions indicating the possible presence of previously unforeseen contaminated soil, contaminated water, or regulated waste, the Contractor shall immediately stop work in the vicinity, notify the MnDOT Project Manager and request suspension of work in the vicinity of the discovery area.
- B. A documented inspection and evaluation will be conducted prior to the resumption of work. The Contractor shall not resume work in the suspected area without authorization by the Owner.
- C. Indicators of contaminated soil, ground water or surface water include, but are not limited to the following:
 - 1. Odor including gasoline, diesel, creosote (odor of railroad ties), mothballs, or other chemical odor.
 - 2. Soil stained green or black (but not because of organic content), or with a dark, oily appearance, or any unusual soil color or texture.
 - 3. A rainbow color (sheen) on surface water or soil.
- D. Indicators of regulated wastes include, but are not limited to the following:

1. Cans, bottles, glass, scrap metal, wood (indicators of solid waste and a possible dump)
2. Concrete and asphalt rubble (indicators of demolition waste).
3. Roofing materials, shingles, siding, vermiculite, floor tiles, transite or any fibrous material (indicators of demolition waste that could contain asbestos, lead or other chemicals).
4. Culverts or other pipes with tar-like coating, insulation or transite (indicators of asbestos).
5. Ash (ash from burning of regulated materials may contain lead, asbestos, or other chemicals).
6. Sandblast residue (could contain lead).
7. Treated wood including, but not limited to products referred to as green treat, brown treat, and creosote (treated wood disposal is regulated).
8. Chemical containers such as storage tanks, drums, filters, and other containers (possible sources of chemical contaminants).
9. Old basements with intact floor tiles or insulation (could contain asbestos), sumps (could contain chemical waste), waste traps (could contain oily wastes) and cesspools (could contain chemical or oily wastes).

3.3 STORMWATER MANAGEMENT AND EROSION CONTROL

A. General

1. Schedule and conduct construction activities in a manner to minimize soil erosion and the resulting siltation and turbidity of surface waters.
 - a. Schedule, install, and maintain temporary and permanent sediment and erosion control measures in areas that contribute flow to surface waters.
 - b. Construct permanent and temporary storm water treatment basins.
 - c. Construct drainage facilities.
 - d. Phase and complete earthwork operations.
 - e. Implement good housekeeping measures.
 - f. Implement dewatering operations.
 - g. Establish vegetation.
2. Provide measures to prevent soil erosion and discharge of soil-bearing water runoff and airborne dust to undisturbed areas and to adjacent properties and walkways, according to SWPPP and NPDES Permit.
3. Comply with requirements of authorities-having-jurisdiction.
4. Provide barriers in and around excavations and subgrade construction to prevent flooding by runoff of stormwater from heavy rains.
5. Comply with the requirements herein regardless of whether an NPDES Permit for the work is required or not.

B. Quality Control Program

1. Contractor shall be responsible for developing, implementing, and maintaining a Quality Control Program to ensure that erosion is controlled, that sedimentation is prevented, and that provisions of issued permits are adhered to.
2. The Contractor shall have a competent individual available to the Project to manage, supervise, and conduct the Quality Control Program. The supervisor shall:
 - a. Represent and act on behalf of the Contractor regarding requirements for Erosion and Stormwater Management and Erosion Control.
 - 1) Attend construction meetings to review erosion control schedule and inspections.
 - b. Manage Quality Control Program.
 - 1) Maintain and update the erosion and sediment control schedule.
 - c. Provide preventative BMPs, recommend BMP changes for MnDOT Project Manager's approval.
 - d. Amend the SWPPP and NPDES Permit and/or Drawings to document changes.
 - e. Provide oversight of erosion and sediment preventive measures at each stage of work.
 - 1) Coordinate pre-installation meetings and provide record minutes of the meetings.
 - 2) Verify that installers of erosion and sediment control have proper certifications.

- f. Coordinate with federal, state, and local regulatory agencies on resolution of erosion and sediment control issues incurred by the Work on- and off-site.
 - 1) Maintain daily compliance with environmental laws, permits, and contract requirements.
 - 2) Maintain compliance with applicable permits for borrow pits, dewatering, and temporary work.
 - 3. The Quality Control Program shall consist of:
 - a. Name of the individual(s) responsible for the Quality Control Program.
 - b. Ensuring that permit requirements related to the contractor's construction activities are adhered to.
 - c. Submission of a weekly Erosion Control Schedule.
 - d. Conducting weekly erosion control site walkthrough inspections required by the SWPPP and NPDES Permit that shall include:
 - 1) Watershed district and other permitting authorities, if available.
 - 2) Submission of a corrective action report, or equivalent as accepted by the MnDOT Project Manager, that identifies, locates, and describes the following:
 - a) Surface waters.
 - b) Turbid or brown water locations.
 - c) High-risk pollution generating activities.
 - d) How deficiencies were corrected from the previous week's report.
 - 3) Amending the Site Management Plan.
 - e. Maintaining the SWPPP and NPDES Permit inspection logs.
 - f. Reporting sediment discharges to the appropriate regulatory authority, including the State duty officer, and the MnDOT Project Manager.
 - g. Ensuring that erosion control is incorporated into the work in a timely manner and that disturbed areas are stabilized with mulch/seed or vegetative cover on a section-by-section basis.
 - h. Ensuring that temporary erosion control devices are maintained.
 - i. Ensuring that temporary erosion control devices are removed no longer necessary.
 - j. Ensuring that permanent treatment facilities are functioning as per Plan.
 - 4. The Contractors Quality Control Program and inspection procedures shall be subject to review by the MnDOT Project Manager.
 - 5. Maintain Quality Control Program, SWPPP, and NPDES Permit inspection records (logs) at the Project Site and make available at all times for verification by the MnDOT Project Manager, or authority-having-jurisdiction.
 - a. Prepare a weekly inspection log recording the information concerning conditions and events at the Project site, as required by the SWPPP and NPDES Permit.
 - b. Inspection Logs shall be submitted to the MnDOT Project Manager weekly on the attached Document 01 5718 "Storm Water Pollution Prevention Plan (SWPPP) Inspection Log" at the end of this Section.
- C. Site Management Plan
 - 1. Provide a Site Management Plan in accordance with the definition of such within ten (10) Calendar Days of receipt of Notice to Proceed.
 - a. Update Site Management Plan monthly or when significant events occur that impact or change the Plan.
 - b. Submit updated Plan to MnDOT Project Manager and authority-having jurisdiction.
 - 2. Site Management Plans are for specific construction operations in areas within 200 feet of and drains to surface waters or Areas of Environmental Sensitivity (AES).
 - 3. The Site Management Plan shall:
 - a. Submit a schedule of Work, including Work pursuant to forecasted weather events.
 - b. Provide a list of materials and equipment.
 - c. Provide staging Plans or procedures that describe the locations of storm water and pollutant management Best Management Practices (BMPs).
 - d. Provide additional details of BMPs proposed for use.

4. Do not start Work in the affected areas until the MnDOT Project Manager and authorities-having-jurisdiction accept the Site Management Plan document and all material and equipment are on site.
- D. Erosion and Sediment Control Schedule
 1. The Contractor shall prepare and submit to the MnDOT Project Manager a weekly schedule of proposed erosion and sediment control activities that shall include but is not limited to the following:
 - a. Proposed erosion and sediment control installations and timeline.
 - b. Areas ready for permanent turf establishment and when its will be accomplished.
 - c. Grading operations and how erosion control will be incorporated into the work.
 - d. Corrective action plans from previous week's corrective action report.
 - e. Proposed erosion control measures during work suspensions.
- E. Actions Before Construction
 1. The Contractor shall install temporary sediment control measures in areas tributary to public waters before construction begins in a drainage area.
- F. Related Work Outside Project Site.
 1. The Contractor shall control drainage and erosion on the work related to the Project including haul roads, temporary construction, waste disposal sites, plant, and storage locations, and borrow pits other than commercially operated sources.
 - a. The Contractor shall maintain the area, shape the area to allow storm runoff with minimum erosion, replace topsoil, and establish vegetative cover on areas where the potential for pollution has been increased due to the Contractor's operations.
 - b. The Contractor's waste disposal sites, borrow pit areas or other related work that disturbs one (1) acre or more of total land area, **and located outside of the Project Property**, will require the Contractor's own separate NPDES permit.

3.4 COMPENSATION AND TIME EXTENSION

- A. The Contractor will receive compensation for erosion control as provided for in the Contract. All other expenses incurred in complying with these provisions shall be borne by the Contractor.
 1. The Contractor will not receive compensation for erosion control measures off the Project property unless so specified in the Contract.
 2. Additional temporary and permanent erosion control measures ordered by the MnDOT Project Manager, which are necessitated by additional Contract work, will be compensated by Change Order at the appropriate Contract prices for like work or as Extra Work in the absence of comparable items of work.
- B. The Contractor will not receive additional compensation or time extensions for any disruption of work or loss of time caused by any actions brought against the Contractor for failure to comply with air, land, and water pollution controls.

3.5 WITHHOLDING OF PAYMENT FOR NON-COMPLIANCE

- A. If the Contractor fails to install erosion or sediment control measures ordered by the MnDOT Project Manager, the Owner may withhold payment from related work until the control measures are undertaken by the Contractor.
- B. When the Contractor fails to conduct the quality control program, fails to conduct the inspections required in the SWPPP and NPDES permit, or fails to take action ordered by the MnDOT Project Manager to remedy erosion or sediment control problems:
 1. The MnDOT Project Manager will issue a written order to the Contractor.
 2. The Contractor shall respond within 24 hours with sufficient personnel, equipment and/or materials and conduct the required work or be subject to a \$500.00 per calendar day deduction for noncompliance.

END OF SECTION 01 5717

DOCUMENT 01 5718 – STORM WATER POLLUTION PREVENTION PLAN (SWPPP) INSPECTION LOG

PROJECT: _____ Date/Time: _____
 SWPPP Certified Contractor Supt.: _____ Certification No.: _____
 SWPPP Certified MnDOT Inspector: _____ Certification No.: _____
 Weather: _____ Rainfall amount last 24 hours: _____

NOTE: - any conditions resulting in non-effective or potentially insufficient pollution prevention must be corrected in a timely manner and in accordance with regulatory requirements.

| <u>INSPECTION REQUIREMENT</u> | <u>MEASURE IMPLEMENTED</u> | <u>MAINTENANCE REQUIRED</u> | <u>CORRECTIVE ACTION REQUIRED AND NOTES</u> |
|---|--------------------------------|---------------------------------|---|
| Compliance with the SWPPP plan details in the contract documents? | Yes / No / NA | Yes / No | |
| Contractor initiated changes to the SWPPP plan effective? | Yes / No / NA | Yes / No | |
| Construction site vehicle exits free of off-site sediment tracking? | Yes / No / NA | Yes / No | |
| Silt fences, bio-logs and perimeter controls adequately installed and properly functioning? | Yes / No / NA | Yes / No | |
| Sediment escaping the immediate construction site? | Yes / No / NA | Yes / No | |
| Dewatering treatment in-place as needed? | Yes / No / NA | Yes / No | |
| Concrete wash-out area effectively used and maintained? | Yes / No / NA | Yes / No | |
| Waste products being disposed of in an improper manner? | Yes / No / NA | Yes / No | |
| Inlet protection devices and sediment traps effectively functioning? | Yes / No / NA | Yes / No | |
| Slopes, stockpiles, and disturbed areas stabilized within the time periods allowed? | Yes / No / NA | Yes / No | |
| Surface waters and other sensitive areas fully protected? | Yes / No / NA | Yes / No | |
| Temporary and permanent sediment basins functioning properly? | Yes / No / NA | Yes / No | |
| Planned infiltration areas being protected from sediment and compaction? | Yes / No / NA | Yes / No | |
| Trash on the site being collected properly? | Yes / No / NA | Yes / No | |
| Geothermal well drilling and bentonite grouting operations fully protected? | Yes / No / NA | Yes / No | |

(SWPPP Inspection Log 7/25/2011)

SECTION 01 6000 - PRODUCT REQUIREMENTS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements for selection of products for use in Project; product delivery, storage, and handling; manufacturers' standard warranties on products; special warranties; and comparable products.
- B. Related Requirements:
 - 1. Section 01 2500 "Substitution Procedures" for requests for substitutions.
 - 2. Section 01 4000 "Quality Requirements"

1.2 DEFINITIONS

- A. Products: Items obtained for incorporating into the Work, whether purchased for Project or taken from previously purchased stock. The term "product" includes the terms "material," "equipment," "system," and terms of similar intent.
 - 1. Named Products: Items identified by manufacturer's product name, including make or model number or other designation shown or listed in manufacturer's published product literature that is current as of date of the Contract Documents.
 - 2. New Products: Items that have not previously been incorporated into another project or facility. Products salvaged or recycled from other projects are not considered new products.

1.3 QUALITY ASSURANCE

- A. Compatibility of Options: If Contractor is given option of selecting between two or more products for use on Project, select product compatible with products previously selected, even if previously selected products were also options.

1.4 PRODUCT DELIVERY, STORAGE, AND HANDLING

- A. Deliver, store, and handle products using means and methods that will prevent damage, deterioration, and loss, including theft and vandalism. Comply with manufacturer's written instructions.
- B. Delivery and Handling:
 - 1. Schedule delivery to minimize long-term storage at Project site and to prevent overcrowding of construction spaces.
 - 2. Coordinate delivery with installation time to ensure minimum holding time for items that are flammable, hazardous, easily damaged, or sensitive to deterioration, theft, and other losses.
 - 3. Deliver products to Project site in an undamaged condition in manufacturer's original sealed container or other packaging system, complete with labels and instructions for handling, storing, unpacking, protecting, and installing.
 - 4. Inspect products on delivery to determine compliance with the Contract Documents and to determine that products are undamaged and properly protected.
- C. Storage:
 - 1. Store products to allow for inspection and measurement of quantity or counting of units.
 - 2. Store materials in a manner that will not endanger Project structure.
 - 3. Store products that are subject to damage by the elements, under cover in a weathertight enclosure above ground, with ventilation adequate to prevent condensation.
 - 4. Protect foam plastic from exposure to sunlight, except to extent necessary for period of installation and concealment.
 - 5. Comply with product manufacturer's written instructions for temperature, humidity, ventilation, and weather-protection requirements for storage.

6. Protect stored products from damage and liquids from freezing.

1.5 PRODUCT WARRANTIES

- A. Warranties specified in other Sections shall be in addition to, and run concurrent with, other warranties required by the Contract Documents. Manufacturer's disclaimers and limitations on product warranties do not relieve Contractor of obligations under requirements of the Contract Documents.
 1. Manufacturer's Warranty: Written warranty furnished by individual manufacturer for a particular product and specifically endorsed by manufacturer to Owner.
 2. Special Warranty: Written warranty required by the Contract Documents to provide specific rights for Owner.
- B. Special Warranties: Prepare a written document that contains appropriate terms and identification, ready for execution.
 1. Manufacturer's Standard Form: Modified to include Project-specific information and properly executed.
 2. Specified Form: When specified forms are included with the Specifications, prepare a written document using indicated form properly executed.
 3. Refer to other Sections for specific content requirements and particular requirements for submitting special warranties.
- C. Submittal Time:
 1. Comply with requirements in Section 01 7700 "Closeout Procedures."
 2. Provide Sample Warranties submittals as indicated.
- D. Submit Manufacturer's warranty registered with the Manufacturer and provide completed warranty documents indicating the Owner as the Minnesota Commissioner of Transportation or its duly authorized representative: The Office of Maintenance: Building Services Section.
- E. Schedule of Warranties: Provide schedule of products, specification section, warranty document identification, manufactures and installer's contact information, term of warranty, date of commencement and date of expiration.

PART 2 - PRODUCTS

2.1 PRODUCT SELECTION PROCEDURES

- A. General Product Requirements: Provide products that comply with the Contract Documents, are undamaged and, unless otherwise indicated, are new at time of installation.
 1. Provide products complete with accessories, trim, finish, fasteners, and other items needed for a complete installation and indicated use and effect.
 2. Standard Products: If available, and unless custom products or nonstandard options are specified, provide standard products of types that have been produced and used successfully in similar situations on other projects.
 3. Owner reserves the right to limit selection to products with warranties not in conflict with requirements of the Contract Documents.
 4. Where products are accompanied by the term "as selected," Architect/Engineer will make selection.
 5. Descriptive, performance, and reference standard requirements in the Specifications establish salient characteristics of products.
- B. Product Selection Procedures:
 1. Product: Where Specifications name a single manufacturer and product, provide the named product that complies with requirements. Comparable products or substitutions for Contractor's convenience will not be considered.

2. Manufacturer/Source: Where Specifications name a single manufacturer or source, provide a product by the named manufacturer or source that complies with requirements. Comparable products or substitutions for Contractor's convenience will not be considered.
3. Products:
 - a. Restricted List: Where Specifications include a list of names of both manufacturers and products, provide one of the products listed that complies with requirements. Comparable products or substitutions for Contractor's convenience will not be considered.
4. Manufacturers:
 - a. Restricted List: Where Specifications include a list of manufacturers' names, provide a product by one of the manufacturers listed that complies with requirements. Comparable products or substitutions for Contractor's convenience will not be considered.

PART 3 - EXECUTION (Not Used)

END OF SECTION 01 6000

SECTION 01 7300 - EXECUTION

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes general administrative and procedural requirements governing execution of the Work including, but not limited to, the following:
 - 1. Construction layout.
 - 2. Field engineering and surveying.
 - 3. Installation of the Work.
 - 4. Cutting and patching.
 - 5. Progress cleaning.
 - 6. Protection of installed construction.
 - 7. Correction of the Work.
- B. Related Requirements:
 - 1. Refer to AIA A201 "General Conditions" State of Minnesota edition bound herein Article 3 "Contractor" for additional requirements.
 - 2. Section 01 1000 "Summary" for limits on use of Project site.

1.2 QUALITY ASSURANCE

- A. Land Surveyor Qualifications: A Professional Land Surveyor licensed by the State of Minnesota and who is experienced in providing land-surveying services of the kind indicated.
- B. Cutting and Patching: Comply with requirements for and limitations on cutting and patching of construction elements.
 - 1. Operational Elements: Do not cut and patch operating elements and related components in a manner that results in reducing their capacity to perform as intended or that result in increased maintenance or decreased operational life or safety.
 - 2. Other Construction Elements: Do not cut and patch other construction elements or components in a manner that could change their load-carrying capacity and their capacity to perform as intended, or that result in increased maintenance or decreased operational life or safety.
 - 3. Visual Elements: Do not cut and patch construction in a manner that results in visual evidence of cutting and patching. Remove and replace construction that has been cut and patched in a visually unsatisfactory manner.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. In-Place Materials: Use materials for patching identical to in-place materials.
 - 1. If identical materials are unavailable or cannot be used, use materials that, when installed, will provide a match acceptable to Architect/Engineer for the visual and functional performance of in-place materials.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Existing Conditions: The existence and location of underground and other utilities and conditions and construction indicated as existing are not guaranteed by the Owner.
 - 1. Before beginning site work, investigate and verify the existence and location of existing systems and assemblies, underground utilities, and other conditions and construction affecting the Work.

2. Notify Architect/Engineer and MnDOT Project Manager immediately upon the discovery of unforeseen existing systems and assemblies, underground utilities, and other conditions and construction affecting the Work.
 3. Before construction, verify the location and invert elevation at points of connection of underground sanitary sewer, storm sewer, and water-service piping, underground electrical services, and other utilities.
- B. Examination and Acceptance of Conditions: Before proceeding with each component of the Work, examine substrates, areas, and conditions, with Installer or Applicator present where indicated, for compliance with requirements for installation tolerances and other conditions affecting performance. Record observations.
- C. Proceed with installation only after unsatisfactory conditions have been corrected. Proceeding with the Work indicates acceptance of surfaces and conditions.

3.2 PREPARATION

- A. Existing Utility Information: Furnish information to local utility that is necessary to adjust, move, or relocate existing utility structures, utility poles, lines, services, or other utility appurtenances located in or affected by construction. Coordinate with authorities having jurisdiction.
- B. Field Measurements: Take field measurements as required to fit the Work properly. Recheck measurements before installing each product.
- C. Space Requirements: Verify space requirements and dimensions of items shown diagrammatically on Drawings.
- D. Review of Contract Documents and Field Conditions: Immediately on discovery of the need for clarification of the Contract Documents caused by differing field conditions outside the control of Contractor, submit a request for information to Architect/Engineer.

3.3 CONSTRUCTION LAYOUT

- A. Verification: Before proceeding to lay out the Work, verify layout information shown on Drawings, in relation to the property survey and existing benchmarks. If discrepancies are discovered, notify Architect/Engineer promptly.
- B. General: Engage a Land Surveyor to lay out the Work using accepted surveying practices.
1. Establish benchmarks and control points to set lines of construction as needed to locate each element of Project.
 2. Establish limits on use of Project site.
 3. Establish dimensions within tolerances indicated. Do not scale Drawings.
 4. Inform installers of lines and levels to which they must comply.
 5. Check the location, level and plumb, of every major element as the Work progresses.
 6. Notify Architect/Engineer when deviations from required lines and levels exceed allowable tolerances.
 7. Close site surveys with an error of closure equal to or less than the standard established by authorities having jurisdiction.
- C. Site Improvements: Locate and lay out site improvements, including pavements, grading, fill and topsoil placement, utility slopes, and rim and invert elevations.
- D. Record Log: Maintain a log of layout control work. Record deviations from required lines and levels. Include beginning and ending dates and times of surveys, weather conditions, name and duty of each survey party member, and types of instruments and tapes used. Make the log available for reference by Architect/Engineer.

3.4 FIELD ENGINEERING

- A. Reference Points: Locate existing permanent benchmarks, control points, and similar reference points before beginning the Work. Preserve and protect permanent benchmarks and control points during construction operations.
- B. Benchmarks: Establish and maintain a minimum of three (3) permanent benchmarks on Project site, referenced to data established by survey control points.
 - 1. Record benchmark locations, with horizontal and vertical data, on Project Record Documents.

3.5 INSTALLATION

- A. General: Locate the Work and components of the Work accurately, in correct alignment and elevation, as indicated.
- B. Comply with manufacturer's written instructions and recommendations for installing products in applications indicated.
- C. Install products at the time and under conditions that will ensure the best possible results. Maintain conditions required for product performance until Substantial Completion.
- D. Conduct construction operations so no part of the Work is subjected to damaging operations or loading in excess of that expected during normal conditions of occupancy.
- E. Sequence the Work and allow adequate clearances to accommodate movement of construction items on site and placement in permanent locations.
- F. Tools and Equipment: Where possible, select tools or equipment that minimize production of excessive noise levels.
- G. Joints: Make joints of uniform width. Where joint locations in exposed work are not indicated, arrange joints for the best visual effect. Fit exposed connections together to form hairline joints.
- H. Hazardous Materials: Use products and installation materials that are not considered hazardous.
- I. Remove and replace damaged, defective, or non-conforming Work.

3.6 CUTTING AND PATCHING

- A. Cutting and Patching, General: Employ skilled workers to perform cutting and patching. Proceed with cutting and patching at the earliest feasible time, and complete without delay.
 - 1. Cut in-place construction to provide for installation of other components or performance of other construction, and subsequently patch as required to restore surfaces to their original condition.
- B. Protection: Protect in-place construction during cutting and patching to prevent damage. Provide protection from adverse weather conditions for portions of Project that might be exposed during cutting and patching operations.
- C. Adjacent Occupied Areas: Where interference with use of adjoining areas or interruption of free passage to adjoining areas is unavoidable, coordinate cutting and patching according to requirements in Section 01 1000 "Summary."
- D. Existing Utility Services: Where existing services/systems are required to be removed, relocated, or abandoned, provide bypass for such services/systems before cutting to prevent interruption to occupied areas.

- E. Cutting: Cut in-place construction by sawing, drilling, breaking, chipping, grinding, and similar operations, including excavation, using methods least likely to damage elements retained or adjoining construction.
 - 1. Concrete: Cut using a cutting machine, such as an abrasive saw or a diamond-core drill.
 - 2. Excavating and Backfilling: Comply with requirements in applicable Sections where required by cutting and patching operations.
 - 3. Proceed with patching after construction operations requiring cutting are complete.
- F. Patching: Patch construction as acceptable to Architect/Engineer by filling, repairing, refinishing, closing up, and similar operations following performance of other work. Patch with durable seams that are as invisible as practicable. Provide materials and comply with installation requirements specified in other Sections, where applicable.
- G. Cleaning: Clean areas and spaces where cutting and patching are performed. Remove foreign materials from adjacent finished surfaces.

3.7 PROGRESS CLEANING

- A. General: Clean Project site and work areas daily, including common areas. Enforce requirements strictly. Dispose of materials lawfully.
 - 1. Do not hold waste materials more than seven days during normal weather or three days if the temperature is expected to rise above 80 deg F.
 - 2. Comply with disposal requirements in Section 01 5717 "Air, Land, and Water Pollution" and Section 01 7419 "Construction Waste Management and Disposal."
 - 3. Containerize Regulated, Hazardous and unsanitary waste materials separately from other waste. Mark containers appropriately and dispose of legally, according to regulations. Use containers intended for holding waste materials of type to be stored.
- B. Work Areas: Clean areas where work is in progress to the level of cleanliness necessary for proper execution of the Work.
 - 1. Remove liquid spills promptly.
- C. Installed Work: Keep installed work clean and protect as necessary to ensure freedom from damage and deterioration at time of Substantial Completion.
- D. During handling and installation, clean and protect construction in progress and adjoining materials already in place. Apply protective covering where required to ensure protection from damage or deterioration at Substantial Completion.
- E. Clean and provide maintenance on completed construction as frequently as necessary through the remainder of the construction period. Adjust and lubricate operable components to ensure operability without damaging effects.
- F. Limiting Exposures: Supervise construction operations to ensure that no part of the construction, completed or in progress, is subject to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period.

3.8 PROTECTION OF INSTALLED CONSTRUCTION

- A. Provide final protection and maintain conditions that ensure installed Work is without damage or deterioration at time of Substantial Completion.
- B. Protection of Existing Items: Provide protection and ensure that existing items to remain undisturbed by construction are maintained in condition that existed at commencement of the Work.

END OF SECTION 01 7300

SECTION 01 7419 - CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements for the following:
 - 1. Recycling nonhazardous demolition and construction waste.
 - 2. Disposing of nonhazardous demolition and construction waste.
- B. Related Requirements:
 - 1. Refer to AIA A201 "General Conditions", State of Minnesota edit as bound herein, Article 10.3 "Hazardous Materials;" Article 3.4.5 "Recycling and Waste Management" and Article 13.9 "Recycling" for additional requirements.

1.2 DEFINITIONS

- A. Construction Waste: Site improvement materials and other solid waste resulting from construction, renovation, or repair operations. Construction waste includes packaging.
- B. Demolition Waste: Site improvement materials resulting from demolition or selective demolition.
- C. Disposal: Removal off-site of demolition and construction waste and subsequent sale, recycling, reuse, or deposit in landfill or incinerator acceptable to authorities having jurisdiction.
- D. Recycle: Recovery of demolition or construction waste for subsequent processing in preparation for reuse.
- E. Salvage: Recovery of demolition or construction waste and subsequent sale or reuse in another facility.
- F. Salvage and Reuse: Recovery of demolition or construction waste and subsequent incorporation into the Work.

1.3 ACTION SUBMITTALS

- A. Waste Management Plan: Submit plan within seven (7) days of date established by the Notice to Proceed.

1.4 INFORMATIONAL SUBMITTALS

- A. Recycling and Processing Facility Records: Indicate receipt and acceptance of recyclable waste by recycling and processing facilities licensed to accept them.
- B. Landfill and Incinerator Disposal Records: Indicate receipt and acceptance of waste by landfills and incinerator facilities licensed to accept them.

1.5 WASTE MANAGEMENT PLAN

- A. General: Develop a waste management plan according to ASTM E 1609 and requirements in this Section. Plan shall consist of waste identification and waste reduction work plan.
 - 1. Waste Identification: Indicate anticipated types and quantities of demolition, site-clearing, and construction waste generated by the Work.
 - 2. Salvaged Materials for Reuse in the Project: For materials that will be salvaged and reused in this Project, describe methods for preparing salvaged materials before incorporation into the Work.
 - 3. Recycled Materials: Include list of local receivers and processors and type of recycled materials each will accept. Include names, addresses, and telephone numbers.

4. Disposed Materials: Indicate how and where materials will be disposed of. Include name, address, and telephone number of each landfill and incinerator facility.
5. Handling and Transportation Procedures: Include method that will be used for separating recyclable waste including sizes of containers, container labeling, and designated location where materials separation will be performed.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 PLAN IMPLEMENTATION

- A. General: Implement approved waste management plan. Provide handling, containers, storage, signage, transportation, and other items as required to implement waste management plan during the entire duration of the Contract.
- B. Site Access and Temporary Controls: Conduct waste management operations to ensure minimum interference with roads, streets, walks, walkways, and other adjacent occupied and used facilities.
 1. Designate and label specific areas on Project site necessary for separating materials that are to be salvaged, recycled, reused, donated, and sold.
 2. Comply with Section 01 5000 "Temporary Facilities and Controls" for controlling dust and dirt, environmental protection, and noise control.

3.2 RECYCLING DEMOLITION AND CONSTRUCTION WASTE, GENERAL

- A. General: Recycle paper and beverage containers used by on-site workers.
- B. Recycling Incentives: Revenues, savings, rebates, tax credits, and other incentives received for recycling waste materials shall accrue to Contractor.
- C. Procedures: Separate recyclable waste from other waste materials, trash, and debris. Separate recyclable waste by type at Project site to the maximum extent practical according to approved construction waste management plan.
 1. Provide appropriately marked containers or bins for controlling recyclable waste until they are removed from Project site. Include list of acceptable and unacceptable materials at each container and bin.
 2. Stockpile processed materials on-site without intermixing with other materials. Place, grade, and shape stockpiles to drain surface water. Cover to prevent windblown dust.
 3. Stockpile materials away from construction area. Do not store within drip line of remaining trees.
 4. Store components off the ground and protect from the weather.
 5. Remove recyclable waste from Owner's property and transport to recycling receiver or processor.

3.4 RECYCLING DEMOLITION WASTE

- A. Asphalt Paving: Break up and transport paving to asphalt-recycling facility if not indicated to be salvaged for mill and overlay.
- B. Concrete: Remove reinforcement and other metals from concrete and sort with other metals.
- C. Wood Materials: Sort and stack members according to size, type, and length. Separate lumber, engineered wood products, panel products, and treated wood materials.

3.5 RECYCLING CONSTRUCTION WASTE

- A. Packaging:

1. Cardboard and Boxes: Break down packaging into flat sheets. Bundle and store in a dry location.
2. Polystyrene Packaging: Separate and bag materials.
3. Pallets: As much as possible, require deliveries using pallets to remove pallets from Project site. For pallets that remain on-site, break down pallets into component wood pieces and comply with requirements for recycling wood.
4. Crates: Break down crates into component wood pieces and comply with requirements for recycling wood.

3.6 DISPOSAL OF WASTE

- A. General: Except for items or materials to be salvaged, recycled, or otherwise reused, remove waste materials from Project site and legally dispose of them in a landfill or incinerator acceptable to authorities having jurisdiction.
 1. Except as otherwise specified, do not allow waste materials that are to be disposed of accumulate on-site.
 2. Remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas.
- B. Burning: Do not burn waste materials.
- C. Burying: Do not bury waste materials on the Project site.

END OF SECTION 01 7419

SECTION 01 7700 - CLOSEOUT PROCEDURES

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements for contract closeout, including, but not limited to, the following:
 - 1. Substantial Completion procedures.
 - 2. Final completion procedures.
 - 3. Warranties.
 - 4. Final cleaning.
 - 5. Repair of the Work.
- B. Related Requirements:
 - 1. Refer to AIA A201 "General Conditions" State of Minnesota edit as bound and herein, Article 9, "Payments & Completion" for additional requirements.
 - 2. Section 01 2900 "Payment Procedures" for additional requirements.
 - 3. Section 01 3233 "Photographic Documentation" for submitting Final Completion construction photographic documentation.
 - 4. Section 01 7839 "Project Record Documents" for submitting Record Drawings, Record Specifications, and Record Product Data.

1.2 ACTION SUBMITTALS

- A. Product Data: For cleaning agents.
- B. Contractor's List of Incomplete Items: Initial submittal at Substantial Completion.
- C. Certified List of Incomplete Items: Final submittal at Final Completion.

1.3 CLOSEOUT SUBMITTALS

- A. Certificates of Release: From authorities having jurisdiction.
- B. Storm Water Pollution Prevention Plan Reports.
- C. Project Warranties.
- D. Final Waiver Forms: Submit executed Minnesota Department of Revenue IC-134 forms with each Final Waiver Form from entities lawfully entitled to file a mechanic's lien arising out of the Contract and related to the Work covered by the payment.

1.4 SUBSTANTIAL COMPLETION PROCEDURES

- A. Contractor's List of Incomplete Items: Prepare and submit a list of items to be completed and corrected (Contractor's punch list), indicating the value of each item on the list and reasons why the Work is incomplete.
- B. Submittals Prior to Substantial Completion: Complete the following a minimum of 10 days prior to requesting inspection for determining date of Substantial Completion. List items below that are incomplete at time of request.
 - 1. Certificates of Release: Obtain and submit releases from authorities having jurisdiction permitting Owner unrestricted use of the Work and access to services and utilities.
 - 2. Submit closeout submittals specified in other Division 01 Sections, including project record documents, Final Completion construction photographic documentation, damage or settlement surveys, and similar final record information.

- C. Procedures Prior to Substantial Completion: Complete the following a minimum of ten (10) days prior to requesting inspection for determining date of Substantial Completion. List items below that are incomplete at time of request.
 - 1. Terminate and remove temporary facilities from Project site, along with construction tools, and similar elements.
 - 2. Complete final cleaning requirements.
 - 3. Touch up and otherwise repair and restore marred exposed finishes to eliminate visual defects.
- D. Inspection: Submit a written request for inspection to determine Substantial Completion a minimum of ten (10) days prior to date the work will be ready for inspection and tests.
 - 1. On receipt of request, Architect/Engineer will either proceed with inspection or notify Contractor of unfulfilled requirements.
 - 2. Architect/Engineer will prepare the Certificate of Substantial Completion after inspection or will notify Contractor of items, either on Contractor's list or additional items identified by Architect/Engineer, that must be completed or corrected before certificate will be issued.
 - 3. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.
 - 4. Results of completed inspection will form the basis of requirements for final completion.

1.6 FINAL COMPLETION PROCEDURES

- A. Preliminary Procedures: Before requesting final inspection for determining final completion, complete the following:
 - 1. Submit a Final Application for Payment according to Section 01 2900 "Payment Procedures."
 - 2. Submit written certification from the Minnesota Department of Revenue that all withholding tax returns have been filed and all withholding taxes attributable to the work performed on the contract have been paid. (IC134)
 - 3. Certified List of Incomplete Items: Submit certified copy of Architect/Engineer's Substantial Completion inspection list of items to be completed or corrected (punch list), endorsed and dated by Architect/Engineer.
- B. Inspection: Submit a written request for Final Inspection to determine acceptance.
 - 1. On receipt of request, Architect/Engineer will either proceed with inspection or notify Contractor of unfulfilled requirements.
 - 2. Architect/Engineer will either certify a final Certificate for Payment after inspection or will notify Contractor of construction that must be completed or corrected before certificate will be issued.
 - 3. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.

1.7 LIST OF INCOMPLETE ITEMS (PUNCH LIST)

- A. Organization of List: Include name and identification of each space and area affected by construction operations for incomplete items and items needing correction including, if necessary, areas disturbed by Contractor that are outside the limits of construction.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Cleaning Agents: Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.

PART 3 - EXECUTION

3.1 FINAL CLEANING

- A. General: Perform final cleaning. Conduct cleaning and waste-removal operations to comply with local laws and ordinances and federal and local environmental and antipollution regulations.
- B. Cleaning: Employ experienced workers for final cleaning.
 - 1. Clean each surface or area to condition expected in an average cleaning and maintenance program. Comply with manufacturer's written instructions.
 - 2. Complete the following cleaning operations before requesting inspection for certification of Substantial Completion for entire Project or for a designated portion of Project:
 - a. Clean Project site, yard, and grounds, in areas disturbed by construction activities, including landscape development areas, of rubbish, waste material, litter, and other foreign substances.
 - b. Sweep paved areas broom clean. Remove petrochemical spills, stains, and other foreign deposits.
 - c. Rake grounds that are neither planted nor paved to a smooth, even-textured surface.
 - d. Remove tools, construction equipment, and surplus material from Project site.
 - e. Leave Project clean and ready for occupancy.

3.2 REPAIR OF THE WORK

- A. Refer to AIA A201 "General Conditions" State of Minnesota edition as bound herein, Article 12.2 "Correction of the Work" for additional requirements.
- B. Complete repair and restoration operations before requesting inspection for determination of Substantial Completion.
- C. Repair or remove and replace defective construction. Repairing includes replacing defective parts, refinishing damaged surfaces, and touching up with matching materials.
 - 1. Where damaged or worn items cannot be repaired or restored, provide replacements.
 - 2. Restore damaged construction and permanent facilities used during construction to specified condition.
 - 3. Touch up and otherwise repair and restore marred or exposed finishes and surfaces. Replace finishes and surfaces that already show evidence of repair or restoration.

END OF SECTION 01 7700

SECTION 01 7839 - PROJECT RECORD DOCUMENTS

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes administrative and procedural requirements for project record documents, including the following:
 - 1. Record Drawings.
 - 2. Record Project Manual.
 - 3. Record Photographs.
- B. Related Requirements:
 - 1. Section 01 7700 "Closeout Procedures."
 - 2. Section 01 3233 "Photographic Documentation."

1.2 CLOSEOUT SUBMITTALS

- A. Record Project Documents: Comply with the following:
 - 1. Number of Copies: Submit copies of record Drawings and Project Manual including all addenda and contract modifications as follows:
 - a. Submit one (1) PDF electronic file of scanned record Project Documents bookmark formatted.
 - b. Submit one (1) hard copy set of record Project Documents, properly labeled.
 - 2. Submit copies of Miscellaneous Record Submittals as follows:
 - a. Submit one (1) PDF electronic file of scanned marked-up submittals, bookmark formatted.

PART 2 - PRODUCTS

2.1 RECORD DRAWINGS

- A. Record Prints: Maintain one (1) set of marked-up paper copies of the Contract Drawings and Shop Drawings, incorporating new and revised Drawings as modifications are issued.
 - 1. Preparation: Mark record prints to show the actual installation where installation varies from that shown originally.
 - 2. Require individual or entity who obtained record data, whether individual or entity is Installer, subcontractor, or similar entity, to provide information for preparation of corresponding marked-up record prints.
 - a. Give particular attention to information on concealed elements that would be difficult to identify or measure and record later.
 - b. Record data as soon as possible after obtaining it.
 - c. Record and check the markup before enclosing concealed installations.
 - 3. Mark the Contract Drawings and Shop Drawings completely and accurately.
 - 4. Mark important additional information that was either shown schematically or omitted from original Drawings.
 - 5. Mark record sets with erasable, red-colored pencil. Use other colors to distinguish between changes for different categories of the Work at same location.
 - 6. Note Construction Change Directive numbers, alternate numbers, Supplemental Agreement numbers, and similar identification, where applicable.
- B. Identification Format: Identify and date each record Project Drawing with the following designation "RECORD PROJECT DRAWING" and date in a prominent location of each sheet.
 - 1. Record Prints: Organize record prints and newly prepared record Drawings into manageable sets. Bind each set with durable paper cover sheets. Include identification on cover sheets.

2.2 RECORD PROJECT MANUAL

- A. Preparation: Mark Specifications to indicate the actual product installation where installation varies from that indicated in Specifications, addenda, and contract modifications.
 - 1. Mark copy with the proprietary name and model number of products, materials, and equipment furnished, including substitutions and product options selected.
 - 2. Record the name of manufacturer, supplier, Installer, and other information necessary to provide a record of selections made.
 - 3. Note related Supplemental Agreements, record Product Data, and record Drawings where applicable.
- B. Identification Format: Identify and date each record Project Manual with the following designation "RECORD PROJECT MANUAL" in a prominent location on the cover.

2.3 MISCELLANEOUS RECORD SUBMITTALS

- A. Assemble miscellaneous records required by other Specification Sections for miscellaneous record keeping and submittal in connection with actual performance of the Work. Bind or file miscellaneous records and identify each, ready for continued use and reference.
- B. Identification Format: Identify and date each Record Submittal section with the following designation "RECORD PROJECT DATA" in a prominent location.

PART 3 - EXECUTION

3.1 RECORDING AND MAINTENANCE

- A. Recording: Maintain one (1) copy of each submittal during the construction period for project record document purposes. Post changes and revisions to project record documents as they occur.
- B. Maintenance of Record Documents and Samples: Store record documents and Samples in the field office apart from the Contract Documents used for construction. Do not use project record documents for construction. Maintain record documents in good order and in a clean, dry, legible condition, protected from deterioration and loss. Provide access to project record documents for Architect/Engineer and MnDOT Project Manager's reference during normal working hours.

END OF SECTION 01 7839

MINNESOTA DEPARTMENT OF TRANSPORTATION

CONSTRUCTION PLAN FOR GRADING, BITUMINOUS MILLING AND SURFACING

LOCATED AT MNDOT TRUCK STATION MORRIS

STATE PROJ. NO. 8824-255

FED. PROJ. NO. STATE FUNDS

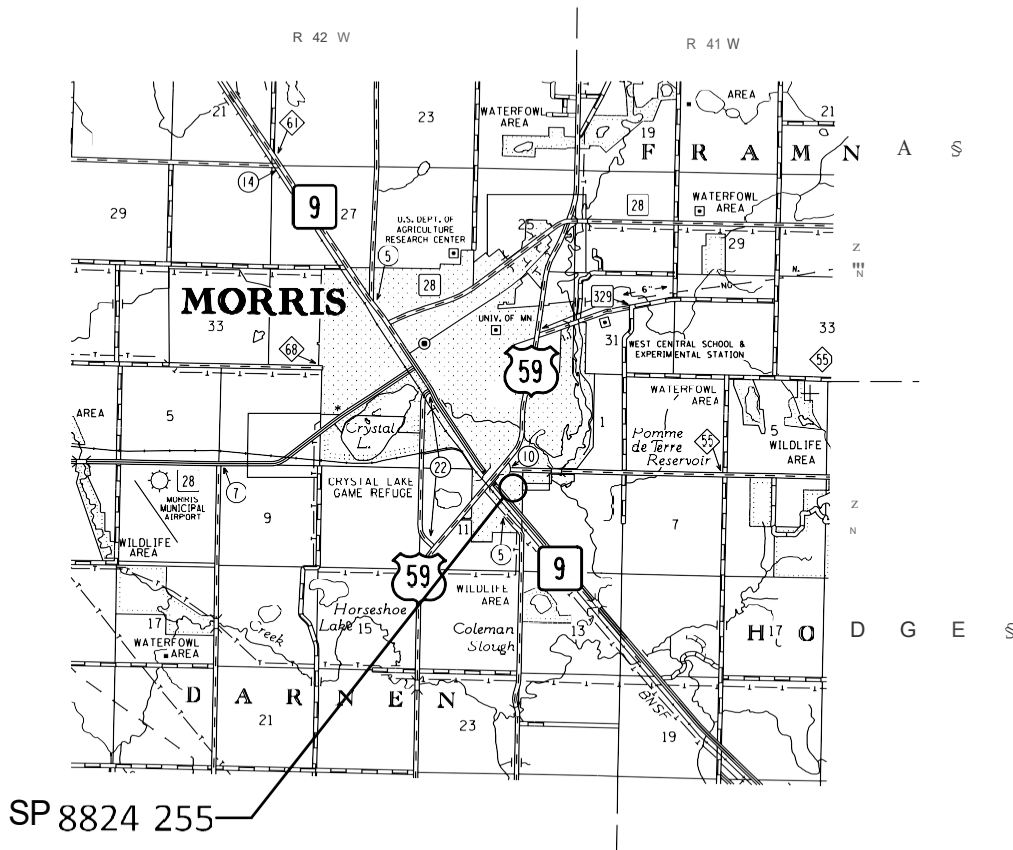
GOVERNING SPECIFICATIONS

THE 2020 EDITION OF THE MINNESOTA DEPARTMENT OF TRANSPORTATION "STANDARD SPECIFICATIONS FOR CONSTRUCTION" SHALL GOVERN.

INDEX

- 1 TITLE SHEET
- 2 ESTIMATED QUANTITIES
- 3 TYPICAL SECTION DETAIL
- 4 CONSTRUCTION PLAN

THIS PLAN CONTAINS 4 SHEETS



SCALES

PLAN 100 FT

INDEX MAP 1 MILE



PROJECT LOCATION

COUNTY : STEVENS

DIST./DIV. : 4

FOR PLANS AND UTILITIES SYMBOLS SEE TECHNICAL MANUAL

STATE PROJ. NO. CHARGE IDENTIFIER

I HEREBY CERTIFY THAT THIS PLAN WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

PRINT NAME: ANDREW KROG LICENSE# 54689

SIGNATURE: DATE:

| PLAN REVISIONS | | |
|----------------|-----------|----------|
| DATE | SHEET NO. | APPROVER |
| | | |
| | | |
| | | |
| | | |

STATEMENT OF ESTIMATED QUANTITIES

| ITEM NO. | DESCRIPTION | UNIT | ESTIMATED QUANTITY |
|----------|---|----------|--------------------|
| 2021.501 | MOBILIZATION | LUMP SUM | |
| 2104.503 | SAWING BITUMINOUS PAVEMENT (FULL DEPTH) CD | LIN FT | 1850 |
| 2106.507 | EXCAVATION - COMMON | CU YD | 5043 |
| 2211.507 | AGGREGATE BASE CCV) CLASS 5 | CU YD | 4358 |
| 2232.504 | MILL BITUMINOUS SURFACE (5.0") | SQ YD | 15792 |
| 2531.604 | CONCRETE DRAINAGE FLUME | SQ YD | 327 |
| 2360.509 | TYPE SP 12.5 WEARING COURSE MIXTURE (3,C) | TON | 4253 |
| | | | |
| | | | |
| | | | |

CONSTRUCTION NOTES

CD SAWCUT EXISTING PAVEMENT AT REMOVAL LIMITS AND ALONG BUILDINGS TO PROVIDE A UNIFORM PAVEMENT EDGE
@ SEE DETAIL ON SHEET 3

UTILITY OWNERS WITH FACILITIES IN THE AREA:

ARVIG COMMUNICATIONS SYSTEMS
 CENTERPOINT ENERGY MINNESOTA GAS
 CENTURYLINK
 CITY OF MORRIS
 FEDERATED TELEPHONE COOPERATIVE
 MEDIACOM
 MINNESOTA DEPARTMENT OF TRANSPORTATION
 OTTER TAIL POWER COMPANY

UTILITY NOTES:

THE SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS UTILITY QUALITY LEVEL D. THIS UTILITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF CI/ ASCE 38-22, ENTITLED "STANDARD GUIDELINES FOR INVESTIGATING AND DOCUMENTING EXISTING UTILITY DATA. "

PUBLIC UTILITIES

NO UTILITIES WILL BE AFFECTED BY THIS PROJECT.

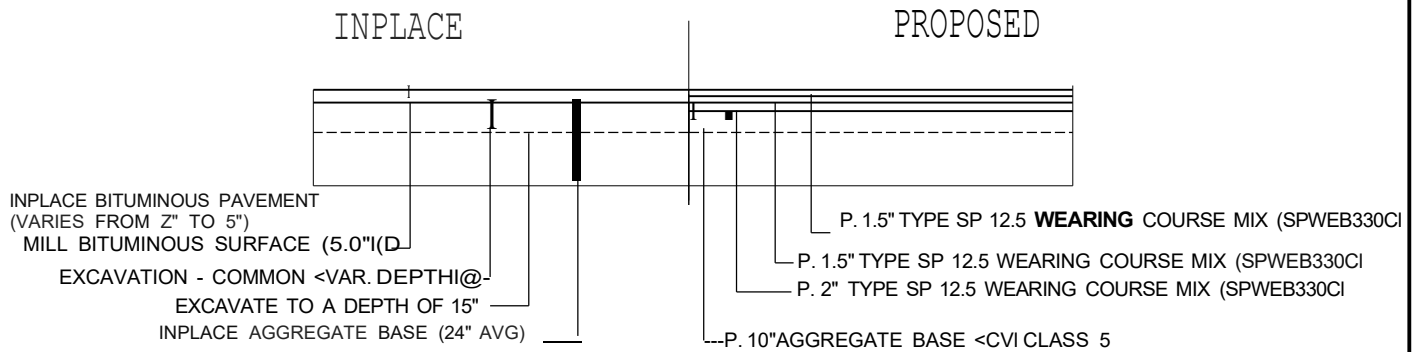
ESTIMATED QUANTITIES


 ANDREW KROG
 LIC. NO. 54689
 DATE: 12-FEB-2025
 LICENSED PROFESSIONAL ENGINEER

I HEREBY CERTIFY THAT THIS PLAN SHEET WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

STATE PROJ. NO. 8824-255 SHEET 2 OF 4 SHEETS

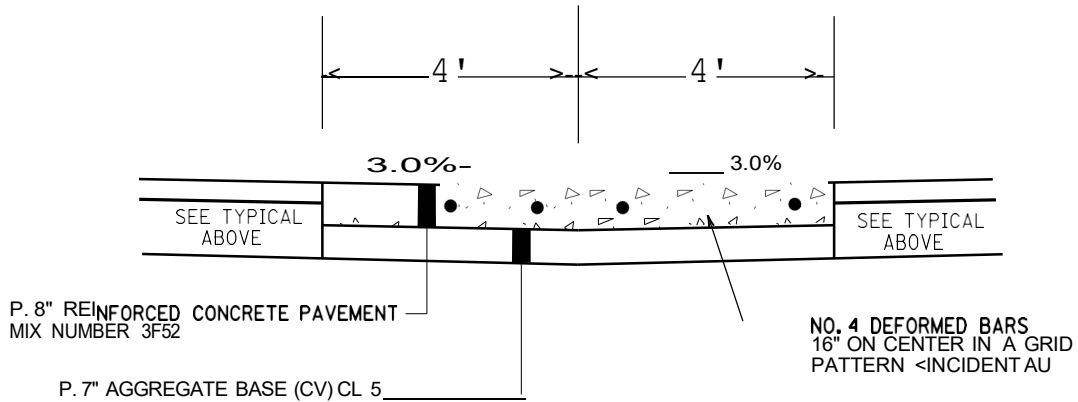
MORRIS PARKING LOT TYPICAL RECONSTRUCTION 5" BITUMINOUS SURFACING



G) MILLINGS WILL BE STOCKPILED AT THE MORRIS TRUCK STATION SITE, INCIDENTAL.

@ EXCAVATED MATERIAL WILL BE STOCKPILED AT THE MORRIS TRUCK STATION SITE, INCIDENTAL.

CONCRETE DRAINAGE FLUME



Andrew Krog
LICENSED PROFESSIONAL ENGINEER

ANDREW KROG
LIC. NO. 54689
DATE: 12-FEB-2025

I HEREBY CERTIFY THAT THIS PLAN SHEET WAS PREPARED BY ME OR
UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED
PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF
MINNESOTA.

TYPICAL SECTION/ DETAIL

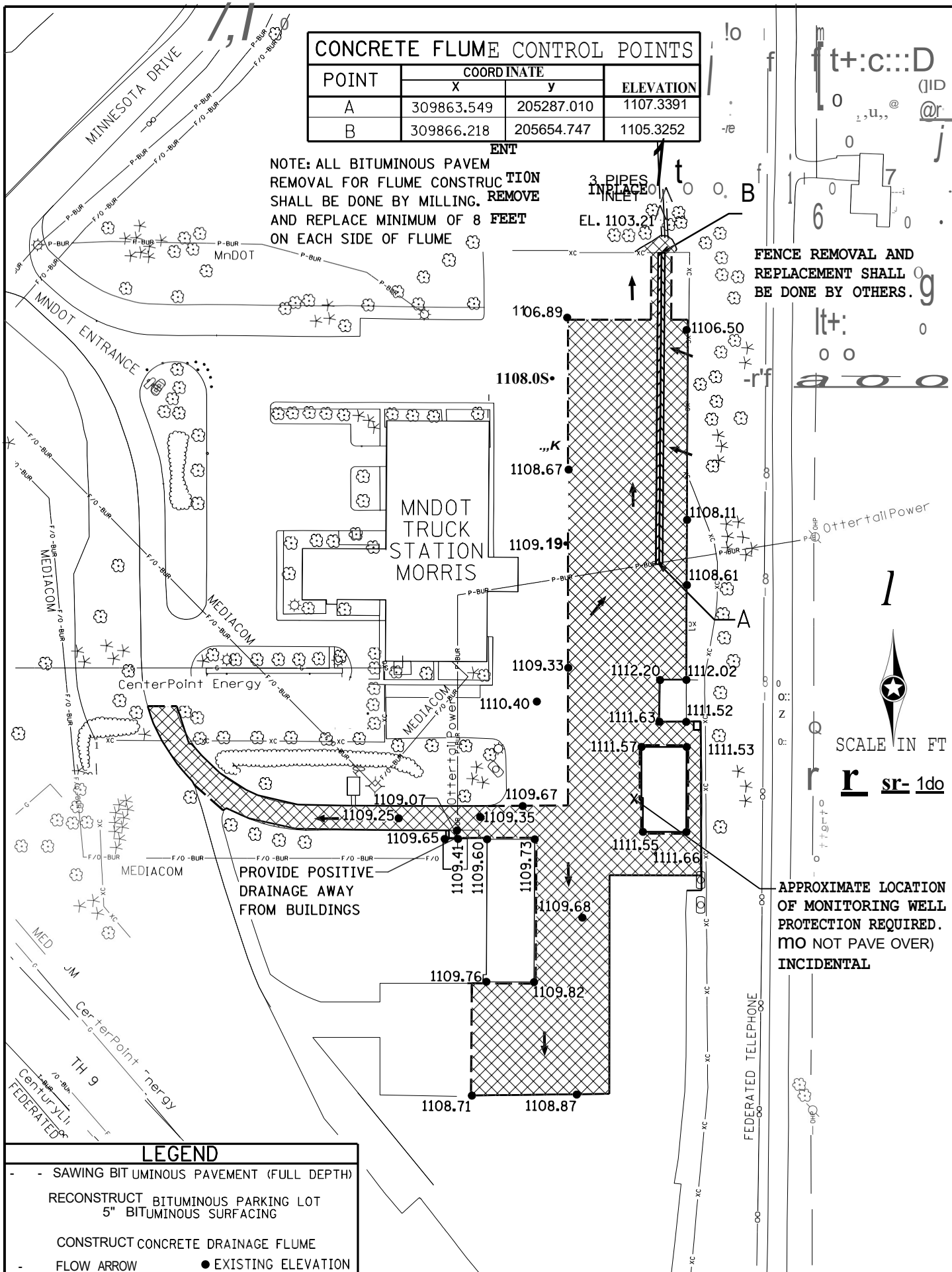
STATE PROJ. NO. 8824-255 SHEET 3 OF 4 SHEETS

CONCRETE FLUME CONTROL POINTS

| POINT | COORDINATE | | ELEVATION |
|-------|------------|------------|-----------|
| | X | Y | |
| A | 309863.549 | 205287.010 | 1107.3391 |
| B | 309866.218 | 205654.747 | 1105.3252 |

NOTE: ALL BITUMINOUS PAVEMENT
REMOVAL FOR FLUME CONSTRUCTION
SHALL BE DONE BY MILLING. REMOVE
AND REPLACE MINIMUM OF 8 FEET
ON EACH SIDE OF FLUME

FENCE REMOVAL AND
REPLACEMENT SHALL
BE DONE BY OTHERS.



LEGEND

- SAWING BITUMINOUS PAVEMENT (FULL DEPTH)
- RECONSTRUCT BITUMINOUS PARKING LOT
5" BITUMINOUS SURFACING
- CONSTRUCT CONCRETE DRAINAGE FLUME
- FLOW ARROW
- EXISTING ELEVATION

ANDREW KROG
LIC. NO. 54689
DATE: 12-FEB-2025

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PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF
MINNESOTA.

CONSTRUCTION PLAN

STATE PROJ. NO.8824-255 SHEET 4 OF 4 SHEETS