



F.A.M.E., Inc.

January Board Meeting

Date and Time

Saturday January 18, 2020 at 10:00 AM CST

Location

428 Broadway Street, New Orleans, LA 70118, Cafeteria

Agenda

I. Opening Items

Opening Items

A. Call the Meeting to Order

B. Record Attendance and Guests

C. Approve Minutes

Approve minutes for FAME Board Meeting on December 14, 2019

II. Other Business

A. 2020-2021 School Year Calendar

The Administration recommends the approval and adoption of the 2020-2021 school calendar as presented during the December 2019 meeting. At this time, there is no further feedback or input from NOLA Public Schools on the matter of school calendars.

III. Finance Committee

Finance Committee

A. Financial Statements December 2019

B. Contract Approval

The Finance Committee recommends that the FAME board accepts and approves the contract with NFT Group, LLC in the amount of \$2,524,498.00, which represents the low bid for Phase 2 construction at the Gentilly Terrace site (Audubon Gentilly) as required by Public Bid law .

IV. CEO's Report

A. Academic Updates

B. Operations Report

C. Development Report

D. Parent Reports

V. Closing Items

A. Announcements

The next meeting of the FAME Board will take place on Saturday, February 15, 2020 beginning at 10am in the Cafeteria of the Broadway campus.

B. Adjourn Meeting

Coversheet

Approve Minutes

Section:	I. Opening Items
Item:	C. Approve Minutes
Purpose:	Approve Minutes
Submitted by:	
Related Material:	Minutes for FAME Board Meeting on December 14, 2019



F.A.M.E., Inc.

Minutes

FAME Board Meeting

Date and Time

Saturday December 14, 2019 at 10:00 AM

Location

428 Broadway Street New Orleans, LA 70118

Directors Present

B. Connick, C. Lebas, C. Tregre, D. Bardell, D. Held, D. Omojola, J. Jalice, L. Moran, R. Fernandez, R. Kirschman, T. Lasher

Directors Absent

M. Russell

Directors who arrived after the meeting opened

R. Fernandez, R. Kirschman

Directors who left before the meeting adjourned

B. Connick

Ex Officio Members Present

L. Brown

Non Voting Members Present

L. Brown

Guests Present

A. Collopy, Catherine Saranac, D. LaViscount, Darleen Mipro, Elizabeth Dunneback, J. Anderson, L. Spearman, L. Vermeulen, M. Butler, M. Forcier

I. Opening Items

A. Call the Meeting to Order

J. Jalice called a meeting of the board of directors of F.A.M.E., Inc. to order on Saturday Dec 14, 2019 at 10:05 AM.

B. Record Attendance and Guests

C. Approve Minutes

C. Tregre made a motion to approve the minutes from November FAME Board Meeting FAME Board Meeting on 11-16-19.

J. Jalice seconded the motion.

The board **VOTED** unanimously to approve the motion.

D. Acknowledgements

R. Fernandez arrived.

R. Kirschman arrived.

II. Policy Adoption

A. Fee Policy

R. Kirschman made a motion to approve the Fee Policy as presented with two suggested revisions.

R. Fernandez seconded the motion.

The board **VOTED** unanimously to approve the motion.

B. Parental Involvement Policy

FAME Board members suggested several changes to incorporate into initial draft of parental involvement policy. Administration shared that it would share the policy with the parent body and share all feedback with committee. Committee would make final recommendation for policy but any feedback not incorporated into the plan would be included as an addendum to the plan. The Administration expects to present the policy for final adoption at the January 2020 meeting.

C. Lice Policy

D. Held made a motion to approved the Lice Policy as presented which utilizes the guidance from the Center for Disease Control (CDC).

D. Bardell seconded the motion.

The board **VOTED** unanimously to approve the motion.

III. Other Business

A. 2020-2021 School Year Calendar

The Administration shared a draft of the 2020-2021 school calendar. It was noted that NOLA Public Schools is currently discussing the notion of adopting a shared calendar for all schools and there may be future changes to the calendar based on feedback from that conversation. The Administration will ask the board to approve and adopt the calendar during the January 2020 meeting.

IV. Finance Committee

A. 2019 Audit Results

The 2019 Financial Audit was presented by Anthony Rutledge of LaPorte and Associates. An unmodified opinion was presented. Chair of the Finance Committee, C. Tregre, pointed out concerns regarding the trend of expenses relative to revenue for the organization and requested a written report detailing the Administration's plans to resolve this concern within the next 30-60 days.

B. Connick left.

B. Approval of Contract (Bellwether Educational Consultants for Strategic Planning)

C. Tregre made a motion to accept the recommendation of the Finance Committee to approve the contract with Bellwether Educational Consultants to provide strategic planning services to the organization for a total of no more than \$30,000.

D. Held seconded the motion.

Public comments were offered by C. Sarenac and E. Dunneback.

The board **VOTED** unanimously to approve the motion.

C. Financial Statements November 2019

V. Closing Items

A. 2020 Board Meeting Dates

The FAME Board announced meeting dates for 2020.

January 18, 2020

February 15, 2020

March 21, 2020

April 25, 2020

May 16, 2020

June 20, 2020 (Tentative Date of Board Retreat)

July 2020 (NO BOARD MEETING)

August 22, 2020
September 19, 2020
October 24, 2020
November 14, 2020
December 12, 2020

B. Announcements

The next board meeting will be held on Saturday, January 18, 2020 at the Broadway Campus beginning at 10:00 am.

C. Adjourn Meeting

R. Fernandez made a motion to adjourn the meeting.

D. Bardell seconded the motion.

The board **VOTED** unanimously to approve the motion.

There being no further business to be transacted, and upon motion duly made, seconded and approved, the meeting was adjourned at 10:52 AM.

Respectfully Submitted,
D. Omojola

Documents used during the meeting

- Fee Policy v.2.docx
- 20-21 calendar draft 3.doc
- Please_DocuSign_BEP_-_Audubon_Schools_contra.pdf
- Committee Recommendation to Board of Directors.pdf
- 1911 ACS Financial Statement.pdf

Coversheet

2020-2021 School Year Calendar

Section:	II. Other Business
Item:	A. 2020-2021 School Year Calendar
Purpose:	FYI
Submitted by:	
Related Material:	20-21 calendar draft 3.doc

AUDUBON SCHOOLS | 2020-2021 CALENDAR

4 Independence Day

JULY '20						
S	M	T	W	Th	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

JANUARY '21						
S	M	T	W	Th	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

1-4 Winter Break
4 PD-Teachers Return
5 Students Return
18 M.L. King Day- NO School

3 Faculty Return
12 Students Return (K-8)
13 Students Return (PK)
25 Back to School Gentilly
26 Back to School Lower
27 Back to School Upper

AUGUST '20						
S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

FEBRUARY '21						
S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

2 End of 2nd Trimester
5 Early Dismissal
10-11 Early Dismissal
12 Report Card Conferences - NO School
15 Presidents' Day
15-19 Mardi Gras Break

7 Labor Day
18 PD - No School

SEPTEMBER '20						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

MARCH '21						
S	M	T	W	Th	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

12 Columbus Day
12-16 Fall Break
26-30 Spirit Week
31 Halloween

OCTOBER '20						
S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

APRIL '21						
S	M	T	W	Th	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

02 Good Friday
2-9 Spring Break
04 Easter Sunday

6 End of 1st Trimester
10 Election Day (NO School)
11 Veterans Day
20 Report Card Conferences (NO School)
23-27 Thanksgiving Break
26 Thanksgiving Day

NOVEMBER '20						
S	M	T	W	Th	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

MAY '21						
S	M	T	W	Th	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

09 Mother's Day
21 Last Day for Students
26 Last Day for Staff
31 Memorial's Day- School/Offices Closed

Emergency Closure Make-Up Dates (if Needed)
May 24-26, 2020

21-31 Winter Break
25 Christmas Day

DECEMBER '20						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

JUNE '21						
S	M	T	W	Th	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

20 Father's Day

Coversheet

Financial Statements December 2019

Section:	III. Finance Committee
Item:	A. Financial Statements December 2019
Purpose:	Discuss
Submitted by:	
Related Material:	1912 ACS Financial Statement.pdf

FRENCH AND MONTESSORI EDUCATION INCORPORATED

Financial Statements

For the Month Ended December 31, 2019

These financial statements have not been subject to an audit, review, or compilation engagement, and no assurance is provided on them. Substantially all of the disclosures, and the statement of cash flows, required by accounting principles generally accepted in the United States of America have been omitted.

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**FRENCH AND MONTESSORI EDUCATION INCORPORATED
D/B/A AUDUBON CHARTER SCHOOL
STATEMENT OF FINANCIAL POSITION
FOR THE MONTH ENDED December 31, 2019**

ASSETS**CURRENT ASSETS**

Cash and cash equivalents	\$ 914,896
Accounts receivable	525,245
Investments	962,258
Prepaid expenses and other current assets	<u>89,305</u>

Total current assets 2,491,704

PROPERTY AND EQUIPMENT, net 3,818,176

TOTAL ASSETS \$ 6,309,880

LIABILITIES AND NET ASSETS**CURRENT LIABILITIES**

Accounts payable and accrued expenses	\$ 132,791
Accrued salaries and benefits payable	162,206
Deferred revenues	<u>104,451</u>

Total current liabilities 399,448

LONG TERM LIABILITIES

Note Payable 1,902,899

Total long term liabilities 1,902,899

NET ASSETS

Unrestricted net assets 4,007,530

TOTAL LIABILITIES AND NET ASSETS \$ 6,309,880

FRENCH AND MONTESSORI EDUCATION INCORPORATED
D/B/A AUDUBON CHARTER SCHOOL
STATEMENT OF ACTIVITIES AND CHANGE IN NET ASSETS AND BUDGET COMPARISON
FOR THE SIX MONTHS ENDED December 31, 2019

	AUDUBON UPTOWN Actual	AUDUBON GENTILLY Actual	AUDUBON CENTRAL OFFICE Actual	TOTAL	% ACHIEVED OF ANNUAL
REVENUES AND SUPPORT					
MFP revenues	\$ 3,822,437	\$ 772,878	\$ -	\$ 4,595,315	51%
Fee revenues	77,419	23,982	-	101,401	27%
Public grants and program funding	436,875	87,775	-	524,650	25%
Private grants and donations	82,664	34,771	-	117,435	21%
Income from investments	20,846	328	-	21,174	141%
Other income	216,484	23,992	-	240,476	47%
Released from restrictions				-	
Total revenues and support	4,656,725	943,726	-	\$ 5,600,451	44%
EXPENSES					
Salaries	\$ 2,611,178	\$ 674,107	\$ 373,095	\$ 3,658,380	50%
Benefits	844,276	108,793	126,859	1,079,928	49%
Disposal	8,320	2,714	-	11,034	48%
Dues	20,063	1,988	5,449	27,500	23%
Food service	76,318	23,228	-	99,546	22%
Insurance	55,981	-	-	55,981	24%
Materials	130,033	26,692	4,404	161,129	38%
Purchased services	405,593	90,774	36,595	532,962	56%
Rentals	13,764	-	268	14,032	55%
Repairs and maintenance	122,435	50,058	-	172,493	77%
Travel	34,896	1,301	227	36,424	82%
Utilities	83,702	19,846	-	103,548	42%
Depreciation	36,620	50,012	-	86,632	50%
Other expenses	8,980	179	89	9,248	41%
Debt Service	1,956	46,473	-	48,429	37%
Student Transportation	33,870	75,860	-	109,730	55%
Total expenses	4,487,985	1,172,025	546,986	6,206,996	48%
CHANGE IN NET ASSETS	\$ 168,740	\$ (228,299)	\$ (546,986)	\$ (606,545)	
NET ASSETS - Beginning of period				4,614,075	
NET ASSETS - End of period				\$ 4,007,530	

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FRENCH AND MONTESSORI EDUCATION INCORPORATED
D/B/A AUDUBON CHARTER SCHOOL
STATEMENT OF ACTIVITIES AND CHANGE IN NET ASSETS AND BUDGET COMPARISON
FOR THE MONTH ENDED December 31, 2019

	AUDUBON UPTOWN	AUDUBON GENTILLY	AUDUBON CENTRAL OFFICE	Total	Budeted	Variance
	Actual	Actual	Actual			
REVENUES AND SUPPORT						
MFP revenues	\$ 637,073	\$ 133,104	-	\$ 770,177	\$ 747,759	22,418
Fee revenues	16,524	4,836	-	21,360	\$ 37,230	(15,870)
Public grants and program funding	104,440	18,238	-	122,678	\$ 205,778	(83,100)
Private grants and donations	12,041	9,300	-	21,341	\$ 56,900	(35,559)
Income from investments	2,300	65	-	2,365	\$ 1,250	1,115
Other income	45,258	5,690	-	50,948	\$ 50,937	11
Released from restrictions				\$ -	-	-
Total revenues and support	817,636	171,233	-	988,869	1,099,854	(110,985)
EXPENSES						
Salaries	\$ 534,593	\$ 142,086	\$ 61,571	\$ 738,250	\$ 613,994	124,256
Benefits	162,238	22,747	22,452	207,437	\$ 183,800	23,637
Disposal	2,399	675	-	3,074	\$ 1,900	1,174
Dues	4,004	165	5,054	9,223	\$ 10,000	(777)
Food service	21,844	6,676	-	28,520	\$ 42,991	(14,471)
Insurance	9,330	-	-	9,330	\$ 4,712	4,618
Materials	5,607	1,898	-	7,505	\$ 35,151	(27,646)
Purchased services	61,848	10,367	16,603	88,818	\$ 57,640	31,178
Rentals	3,038	-	-	3,038	\$ 2,319	719
Repairs and maintenance	24,359	13,733	-	38,092	\$ 18,600	19,492
Travel	1,519	438	30	1,987	\$ 3,708	(1,721)
Utilities	4,006	3,154	-	7,160	\$ 20,708	(13,548)
Depreciation	6,103	8,335	-	14,438	\$ 14,583	(145)
Other expenses	100	-	-	100	\$ 1,875	(1,775)
Debt Service	-	10,218	-	10,218	\$ 11,000	(782)
Student Transportation	5,750	35,550	-	41,300	\$ 19,800	21,500
Total expenses	846,738	256,042	105,710	1,208,490	1,042,781	165,709
CHANGE IN NET ASSETS				\$ (219,621)	\$ 57,073	\$ (276,694)
NET ASSETS - Beginning of month				4,227,150		
NET ASSETS - End of month				\$ 4,007,529		

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FRENCH AND MONTESSORI EDUCATION INCORPORATED
D/B/A AUDUBON CHARTER SCHOOL
STATEMENT OF CASH FLOWS
FOR THE MONTH ENDED December 31, 2019

Cash Flows from Operating Activities

Changes in Net Assets	\$ (217,757)
Adjustments to Reconcile Change in Net Assets to	
Net Cash Provided by Operating Activities	
Net Realized and Unrealized Loss on Investments	69
Depreciation	14,439
(Increase) Decrease in Assets	-
Accounts Receivable	150,000
Interest Receivable	-
Prepaid Expenses	14,119
Increase (Decrease) in Liabilities	-
Accounts Payable	(16,620)
Accrued liabilities	(26,154)
Deferred Revenue	(12,165)
 Total Adjustments	 <u>123,688</u>
 Net Cash Provided by Operating Activities	 <u>\$ (94,069)</u>

Cash Flows from Investing Activities

Sale of Investments	(2,166)
Purchases of Fixed Assets	<u>(272)</u>
 Net Cash Used in Investing Activities	 <u>\$ (2,438)</u>

Net Increase in Cash	\$ (96,507)
Cash, Beginning of Period	\$ 1,011,403
Cash, End of Period	<u>\$ 914,896</u>

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**FRENCH AND MONTESSORI EDUCATION INCORPORATED
D/B/A AUDUBON CHARTER SCHOOL
MANAGEMENT DISCUSSION AND ANALYSIS
December 31, 2019**

1. MFP REVENUES

The total 2% administrative fee, charged by the OPSB for its supervisory role in being the school's granting authority, retained by OPSB for fiscal year 2019-20, is \$102,132.82 through December 31, 2019 and is recorded within Purchased Services on the Statement of Activities and Change in Fund Balance.

2. PUBLIC GRANTS & PROGRAM FUNDING

	<u>Month</u>	<u>Year to Date</u>	<u>Annual Budget</u>	<u>% ACHIEVED</u>
NCLB - Title I		72,625		
Title II - Improving Teacher Quality		-		
IDEA-B		37,687		
LA 4	43,052	69,158		
EEF		-		
CODOFIL Stipends		30,000		
2018-19 F.A.T. Salary	33,250	199,500		
New School for Nola		-		
Federal Lunch Program	46,376	115,679		
Literacy Grant		-		
Total Public Grants and Program Funding	<u>\$ 122,678</u>	<u>\$ 524,649</u>	<u>\$ 2,057,780</u>	<u>25%</u>

3. PRIVATE GRANTS AND DONATIONS

	<u>Month</u>	<u>Year to Date</u>	<u>Annual Budget</u>	<u>% ACHIEVED</u>
Chinese - Donation In-Kind (Salaries)	12,900	64,500		
LASIP Program		-		
Give Nola		8,482		
Sunship		-		
Schwab Grant		-		
Keller Family		-		
Rosemary Foundation		-		
Annual Giving and Other Donations	1,736	18,904		
Cool Zoo		15,751		
City Park		-		
Kellogg Grant		-		
PTO Mini Grant		-		
Walton Grant		-		
ECMO		-		
FAME BOARD		-		
GNOF		-		
Fais Do-Do		385		
Misc Donations	6,705	9,414		
Total Private Grants and Donations	<u>\$ 21,341</u>	<u>\$ 117,435</u>	<u>\$ 569,000</u>	<u>21%</u>

These financial statements have not been subject to an audit, review, or compilation engagement, and no assurance is provided on them. Substantially all of the disclosures required by accounting principles generally accepted in the United States of America have been omitted.

FRENCH AND MONTESSORI EDUCATION INCORPORATED
D/B/A AUDUBON CHARTER SCHOOL
MANAGEMENT DISCUSSION AND ANALYSIS
December 31, 2019

4. OTHER INCOME	Month	Year to Date	Annual Budget	% ACHIEVED
Charter Care and Arts Reach	\$ 11,463	\$ 137,900		
Other Student Activity	22,443	42,126		
Consumable Fees	12,123	24,918		
EarthKeepers		-		
Summer Camp		5,156		
Food Service Revenues	726	15,495		
Other Miscellaneous	4,194	14,882		
Total Other Income	<u>\$ 50,948</u>	<u>\$ 240,477</u>	<u>\$ 509,368</u>	<u>47%</u>

5. INVESTMENTS	Balance at 12/31/2019
CDARS Account:	
Principal	
Accrued Interest	
Subtotal	<u>-</u>
Merrill Lynch Account:	
Cash/Money account	20,807
Government and Agency Securities	487,888
Corporate Bonds	255,173
Blackrock Mutual Fund	193,332
Accrued Interest	5,057
Subtotal	<u>962,257</u>
Total Investments	<u>\$ 962,257</u>

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Coversheet

Contract Approval

Section:	III. Finance Committee
Item:	B. Contract Approval
Purpose:	Vote
Submitted by:	
Related Material:	00700 A201-2017 - GNOCCS (03.19.19).docx Audubon Gentilly - Phase 2B_Board Packet.pdf

DRAFT AIA® Document A201™ – 2017**General Conditions of the Contract for Construction****for the following PROJECT:***(Name and location or address)*

Renovations to
AUDUBON SCHOOLS
at Gentilly Terrace
PHASE 2B
4720 Painters Street
New Orleans LA 70122
MBA Project No. 11749.4« »

« »

THE OWNER:*(Name, legal status and address)*

« »« »

« »

THE ARCHITECT:*(Name, legal status and address)*

« »« »

« »

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor, as modified, (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions, as modified), Drawings, Specifications, all sections of the Project Manual, 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 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.

§ 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 Modification. 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.

§ 1.1.8 Initial Decision Maker

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 Project Manual

The Project Manual is a volume assemble for the Work that includes the Bidding Documents, sample forms, the bidding requirements, the Advertisement for Bids, the Instructions to Bidders, the Agreement, the General and Supplemental Conditions of the Contract (as modified), and the Specifications. The Project Manual may exist in electronic form only, in paper format, or both.

§ 1.1.10 Days

Unless otherwise specified, all references to days in the Contract Documents shall mean calendar days, and not business days.

§ 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 a discrepancy in the Contract Documents, the more specific and more detailed requirement shall take precedence over the general and less detailed requirement. In case of doubt, the Contractor shall assume that the Owner intends that the more complete method, system, or process is required. Any work, labor, materials, or equipment that may reasonably be inferred from the Contract Documents as being required to produce a functionally complete Project or part thereof shall be supplied by the Contractor at no additional cost to the Owner, regardless of whether it is specifically stated in the Contract Documents. Any reference to standard specifications, manuals, codes of any technical society, group, organization, or association, or to the laws or regulations of any governmental authority, whether such reference is specific or by implication, shall mean the latest or most recent standard specifications, manual, code, laws, or regulations in effect at the time of the opening of bids (or the date of the Contract if not advertised for bids), unless otherwise specifically stated. However, no provision of any standard specification, manual, or code shall be effective to change the duties or the responsibilities of the Owner, Contractor, or Architect (or any of their consultants, agents, or employees) from those set forth in the Contract Documents. In the event of conflict, the Architect may interpret or construe the documents so as to obtain the most substantial and complete performance of the Work consistent with the Contract Documents and reasonably inferable therefrom, in the best interest of the Owner. Contractor acknowledges that not every condition is detailed and that not every item necessary for complete construction is identified in the construction documents

§ 1.2.1.1 During the course of the Work, should any conflict be found in or between the Contract Documents, the Contractor shall be deemed to have estimated the Work on the basis of the greater quality, or the most stringent requirement, unless the Contractor, before submission of its bid, obtained an interpretation in writing from the Architect as to what shall govern. The Architect, in case of such conflict, may interpret or construe the documents so as to obtain the most substantial and complete performance of the Work consistent with the Contract Documents and reasonably inferable therefrom, in the best interest of the Owner, for a functionally complete Project or Work or part thereof. The terms and conditions of this clause shall not relieve any party of any other obligation under the Contract Documents. The Contractor shall request any clarification in sufficient time to avoid delays and additional costs, in accordance with the provisions of Section 4.2.11.

§ 1.2.1.42 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.

§ 1.2.4 At various sections of the Specifications, a subparagraph may identify related works specified elsewhere. Such subparagraph is to serve solely as a guideline and is not to be construed as a listing of all related work. The Contractor shall be solely responsible for complying with all requirements of the Contract Documents, regardless of whether areas of related work are identified in a particular subparagraph. Should there be internal inconsistencies, the Contractor shall either seek clarification from the Architect or base its bids and construction on the most expensive combination of quality and quantity of Work indicated.

§ 1.2.5 Related Work” in the specifications is solely a guideline. Contractor shall identify all related work and properly coordinate all the related work”

§ 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 The Architect 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, 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 construed as publication ~~in derogation of the Architect’s or Architect’s consultants’ reserved rights.~~ As provided for in La. R.S. 38:2317, the Owner is the owner of the drawings, specifications, and other instruments of service.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and 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, 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 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 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.

§ 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 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 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.

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, at its sole discretion, may require that the Contractor, all subcontractors, and material suppliers provide sworn lien releases on the Owner’s forms with each of the Contractor’s pay applications. The Owner reserves the right to withhold progress payments until such lien releases are received for all Work for which prior progress payments have been made to the Contractor. The Owner shall have the sole right to require the Contractor, all subcontractors, and all material suppliers to provide such releases with every Contractor’s payment request until Final Acceptance of the Project. 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 mechanic’s lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner’s interest therein.

§ 2.1.3 The Owner has no duty to discover any design errors or omissions in the Drawings, Plans, Specifications, or other Construction Documents; nor does the Owner have any duty to notify the Contractor of the same. The Owner does not warrant the adequacy or accuracy of any Drawings, Plans, Specifications, or other Contract Documents.

§ 2.2 Evidence of the Owner’s Financial Arrangements

§ 2.2.1 The Owner shall have funds on hand prior to the award and execution of the Contract Documents. 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 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 Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner’s ability to make payment when due; or (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 as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 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, sureties, Subcontractors 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.

§ 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. The Contractor shall be responsible for the payment of any Sewer Impact fees.

§ 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.

§ 2.3.3 If the employment of the Architect terminates, 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.

§ 2.3.4 The Owner, through the Architect, shall may furnish surveys known to the Owner 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 as to the metes and bounds in the survey furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work. The Owner does not guarantee the accuracy of surveys provided regarding the location of utility lines, cables, pipes, or pipelines, or the presence or absence of any easements. The Contractor shall confirm and inform the Architect of the actual location of each utility and make further investigation of all structural, surface, and subsurface conditions, including soil borings of the site of the Project.

§ 2.3.5 The Owner, through the Architect, 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, through the Architect, shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work, a portion of the Work, or the Work at one or more sites in a multiple site Project 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, or fails or refuses to provide a sufficient amount of properly supervised and coordinated labor, materials, or equipment so as to complete the Work within the Contract Time, 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. Stoppage of the Work by the Owner pursuant to this subsection shall not constitute grounds for a claim by the Contractor for delay or for any extension of the Contract Time, nor shall such stoppage of the Work by the Owner pursuant to this subsection constitute grounds for a claim by the Contractor for additional compensation.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work, a portion of the Work, or the Work at one or more sites in a multiple site Project 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 default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default 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 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable actual 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 current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

§ 2.6 Contract Administration

The Owner has retained the Architect, Engineer, or other design professional to design the Project. Such professional has the responsibility to administer the Contract for Construction, including inspection by himself and his consultants. No responsibility for services contracted to the Architect, Engineer, or Contractor shall be shared by the Owner.

§ 2.6.1 Owner's Right to Audit and Require Record Retention

The Contractor shall keep full and accurate records of all costs incurred and items invoiced in connection with the Work; and shall keep and maintain all records related to this Project for a period of five (5) years after Final Payment is issued by the Owner. The Contractor shall require the same of its subcontractors, suppliers, or any entity

involved in the Project or the Work. Such records of the Contractor, its subcontractors, and suppliers shall be open to audit by the Owner, the Owner's authorized representatives, and by the Legislative Auditor for the State of Louisiana during the performance of the Work and during the referenced five (5) year period.

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.

§ 3.1.3 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 or Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor. Quality control (i.e. ensuring compliance with the Contract Documents) is the responsibility of the Contractor. Testing, observations, and/or inspections performed or provided by the Owner are for quality assurance purposes (i.e. confirming compliance with the Contract Documents) and are solely for the benefit of the Owner.

§ 3.1.4 The Contractor stipulates and agrees that the Owner has no duty to discover any design errors or omissions in the Drawings, Plans, Specifications, and other documents; nor does the Owner have any duty to notify the Contractor of the same. The Contractor acknowledges that the Owner does not warrant the adequacy and accuracy of the Drawings, Plans, Specification, or other documents.

§ 3.1.5 The Contractor must establish to the satisfaction of the Architect the reliability and responsibility of the subcontractors to furnish and perform the Work described in the sections of the Specifications pertaining to subcontractor's respective trade(s). See Section 5.2 for the procedures pertaining to subcontractors.

§ 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, which the Contractor thoroughly understands their intent and purpose. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the site. The Contractor is solely responsible for providing a safe environment for the performance of the Work. Contractor shall comply with the provisions of the Louisiana Underground Utilities and Facilities Damage Prevention Law, La. R.S. 40:1749.11, et seq., as amended, prior to any portion of the Work that may require excavation, including, but not limited to, pile driving, digging, auguring, boring, backfilling, dredging, compressing, plowing-in, trenching, ditching, tunneling, land leveling, grading, and/or mechanical probing. Damage to any existing underground utilities by the Contractor shall be repaired at the Contractor's sole cost and expense. Such damage must be reported immediately to the Architect and the Owner. The Contractor shall undertake to make such further investigations, including without limitation, all structural, surface and sub-surface conditions, including soil borings and otherwise of the Project site, regardless of whether or not shown in the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each 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 2.3.4, 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, inconsistencies or omissions discovered by or made known to the Contractor as a request for 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.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, 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.

§ 3.2.4 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 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 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 the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.2.5 Building materials, including but not limited to, all drywall materials to be incorporated into the Work shall either be certified in writing by the manufacturer to be asbestos-free or be inspected and tested by accredited testing laboratories and certified to be free of asbestos content in accordance with the applicable federal standards, including but not limited to, the Asbestos Hazard Emergency Response Act (AHERA) and the Toxic Substance Control Act (TSCA). The work "asbestos" shall mean Asbestiform, Tremolite, and Actinolite. Copies of test reports shall be furnished to the Architect and the Owner. Material discovered to contain asbestos shall be removed immediately at the Contractor's sole cost and expense using current standards of the Louisiana Department of Environmental Quality (DEQ). Drywall materials must be free of any volatile chemicals that have identified emissions of sulfurous gases.

§ 3.2.5 After reporting to the Architect any error, inconsistency or omission he may discover in the Contract Documents, the Contractor shall not proceed with any Work so affected without the Architect's written approval.

3.2.6 Should there be any discrepancy within information on the drawings and information within the specifications, between information on the drawings and information in the specifications and/or between information within the drawings the Architect, whose decision is final, will decide which information and requirement shall govern, and such could be the more stringent and more expensive requirement. Contractor to provide at no additional cost to the Owner. Additionally, if a project element is drawn on one drawing and not on another drawing having similar conditions, the Contractor is responsible for the element throughout the project

§ 3.2.7 The Contractor shall verify all grades, elevations and dimensions indicated on the drawings and report any errors or inconsistencies in them to the Architect before commencing Work.

§ 3.2.8 If there is a discrepancy between scale drawings and written dimensions, the written dimensions shall take precedence over scale dimensions. Although Drawings are drawn to scale as indicated, and dimensions are given, in the case of remodeling or fitting work to existing conditions, the Contractor shall work to existing measurements. Any discrepancy or conflict between dimensions shall be referred to the Architect for final decision.

§ 3.2.9 By executing the Contract, the Contractor represents to the Owner that prior to entering into the Contract, Contractor has examined and inspected the site and any existing improvements, and satisfied itself as to the condition thereof and reviewed all data and reports pertaining to the site and that adequate provision has been made in the Contract Price to fully perform the Work in light of those examinations and inspections. Contractor shall not be entitled to extra payment, and the contract sum shall not be increased, for conditions at the work site and in connection with the work that could have been determined by a careful examination at the site by the Contractor

§ 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. 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 solely responsible for the jobsite safety of such 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 notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect 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 its alternative means, methods, techniques, sequences, or procedures.

§ 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. In the event the Owner or the Architect notify the Contractor of any such acts or omissions, the Contractor shall immediately cure such acts or omissions, or the results thereof.

§ 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.

§ 3.3.4 The Contractor shall review any survey provided and establish the building grades, lines, levels, column, wall, and partition lines required by the various subcontractors in laying out their work, including but not limited to, all underground work in accordance with the Contract Documents. The Contractor shall properly and effectively coordinate the timing, scheduling, and routing of all Work performed by all trades and subcontractors.

§ 3.3.5 Before ordering any material or performing any work, the Contractor shall verify dimensions and check conditions in order to ensure that they properly reflect those on the Drawings. Any inconsistency shall be brought to the attention of the Architect. In the event that discrepancies occur between ordered material and the verification of actual conditions (of which the Architect was not notified beforehand), costs to correct such discrepancies shall be borne by the Contractor.

§ 3.3.6 Building materials to be incorporated into the Work shall either be certified in writing by the manufacturer to be asbestos-free or be inspected and tested by accredited testing laboratories and certified to be free of asbestos content in accordance with the applicable federal standards, including but not limited to, the Asbestos Hazard Emergency Response Act (AHERA) and the Toxic Substance Control Act (TSCA). "Asbestos" shall include Asbestiform, Tremolite, and Actinolite. Copies of test reports shall be furnished to the Architect and the Owner.

§ 3.3.7 On trench excavations in excess of five feet in depth, the Contractor shall bear sole responsibility for design and execution of acceptable trenching and shoring procedures in accordance with State regulations and OSHA 29 CFR 1926, Subpart P, Inspection Procedures for Enforcing the Excavation Standards. The Contractor shall engage the services of a qualified engineer, licensed to practice in the State of Louisiana, to prepare detailed plans and specifications directing the Contractor in the safe execution of trenching and shoring.

§ 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.

§ 3.4.2 Except in the case of minor changes in the Work approved 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 prior written consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive. Failure to schedule the ordering of any item shall not constitute a valid reason to support a request for substitution.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees, its subcontractors and their 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 and shall immediately remove from the Work any unfit person or any person not skilled in the task assigned to them. The Owner shall have the right to require the Contractor to remove any unfit person from the Project. For a Project site that includes a school in session with children present in or adjacent to the Project, the Contractor's employees and its subcontractors' employees may be subject to a criminal background check as set forth in La. R.S. 17:15 and La. R.S. 15:587.1. The Contractor's employees and all other persons, including subcontractors, sub-subcontractors, and suppliers carrying

out any work required by the Contract Documents, shall wear appropriate identification visibly on their person at all times when on the Project site. The Owner shall not be responsible or liable to the Contractor or any subcontractor for any additional costs, expenses, losses, claims, or damages incurred by the Contractor or subcontractor as a result of any removal of an unfit person or compliance with this article.

§ 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 good 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, or the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor's warranty shall include any warranties provided by either the Contract Documents or by law. Nothing stated herein shall be construed to limit or reduce the Owner's rights as provided by La. R.S. 38:2189. If any piece of equipment requires replacing during this warranty period the one year warranty shall be reinstated on replacement date and start over again. The commencement date of ALL warranties of every kind shall be the date of Substantial Completion

§ 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. The School has tax-exempt status for state taxes on materials, and the bid shall include this provision for pricing/purchasing of materials. Contractor shall provide all documentation required for the processing of the exemption

§ 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 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 or negotiations concluded.

§ 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 federal, State, and local public authorities applicable to performance of the Work.

§ 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.

§ 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 indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that 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, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days 48 hours 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 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, archaeological sites or wetlands 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.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all any cash-allowances stated in the Contract Documents and as may be allowed by La. R.S. 38:2212(K), limited to hardware, face brick, landscaping, electric light fixtures, miscellaneous steel, tile, wallpaper and other exterior finishes, fixtures and furnishings, and carpeting. 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. 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.

§ 3.8.4 If any materials are specified as to quantity only, such are not considered a cash allowance. The provisions stated in the information in the Specifications about any quantity will be applicable regarding any credit to the Owner.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent Project Manager, a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The Project Manager and, if no Project Manager, the superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. The superintendent shall be on the Project site any time work is being performed.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract and prior to the Pre-Construction Meeting, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) 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.

§ 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 written consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit, for the Architect's review and approval, the Contractor's construction schedule for the Work in such form and detail as specified in the Contract Documents. A copy is to be provided to the Owner. An electronic version of the Contractor's schedule in both pdf and native format also shall be provided to the Architect and the Owner. The date of commencement to begin the Work is the date set forth in the Contract or such other date as may be established in a Notice to Proceed. The schedule must show a completion of the Work within the Contract Time. No schedule showing early completion

dates will be accepted without written acceptance of the Owner. ~~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. The schedule may be used as a means of determining the Contractor's progress in performance of the Work; but neither the Contractor providing the schedule to the Architect nor its acceptance or use by the Architect or Owner, shall act in any way to relieve the Contractor of any of the Contractor's obligations under the Contract. All float is owned by the Owner. The schedule shall include a network analysis to identify those tasks that will lengthen the Project completion date. In the event of a conflict between the requirements of the Specifications for the Project regarding Construction Progress Documentation and those set forth herein, the more detailed and specific requirements of the Specifications shall prevail.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's ~~approval~~ review. The Architect's ~~approval~~ review 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.

§ 3.10.3 The Contractor shall perform the Work in ~~general~~ accordance with the most recent schedules submitted to ~~approved by the Owner and Architect.~~ A copy of the approved schedule will be submitted to the Owner. If the Architect determines that the Work is not on schedule and the Contractor fails to take appropriate actions to correct, the Contractor shall be deemed in default and the progress of the Work shall be deemed unsatisfactory. Such default may be considered grounds for termination for cause by the Owner in accordance with Section 14.2.

§ 3.10.4: If the work is not on schedule, as determined by the Architect, and the Contractor fails to take action to bring the work on schedule, then the Contractor shall be deemed in default under this Contract and the progress of the work shall be deemed unsatisfactory. Such default may be considered grounds for termination by the Owner for cause in accordance with 14.2

§ 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-reviewed~~ Shop Drawings, Product Data, Samples, and similar required submittals. The Contractor shall prepare and update as-built drawings contemporaneous with the progress of the Work. These shall be in electronic form or paper copy, available to the Architect and Owner upon request, and before Final Payment is made, 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 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.

§ 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-reviewed by the Architect. Should the Contractor, subcontractor, or sub-subcontractor install, construct, erect, or perform any portion of the Work without approval of any required submittal, the Contractor shall bear the cost, responsibility, and delay for any removal, replacement, and/or correction of any and all items, materials, and/or labor necessitated by the Contractor's performance of said Work prior to receipt of the Architect's approval.

§ 3.12.8 The Work shall be in accordance with approved-reviewed 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-review of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect, with the prior approval of the Owner, 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-review 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.

§ 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 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

§ 3.13.1 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. The Contractor acknowledges that he has inspected the site prior to award of the Contract, and accepts the areas for parking, storage, and lay-down of materials, as well as access to the site; and Contractor agrees that the Owner will not be required to alter or interrupt any other operations, if any, at the Project site.

§ 3.13.2 The Contractor shall take all precautions necessary to prevent loss or damage caused by vandalism, theft, burglary, pilferage, or unexplained disappearance of property of the Owner, whether or not forming part of the Work located in the areas of the Project to which the Contractor has access. The Contractor shall provide for security of the Owner's property to prevent any such loss, damage, or injury, except as may be directly caused by agents or employees of the Owner.

§ 3.13.3 The Contractor and any entity for which the Contractor is responsible shall not erect any sign on the Project with without the prior written consent of the Owner.

§ 3.13.4 Without the prior written approval of the Owner, the Contractor shall not permit any workers to use any existing facilities (lavatories, toilets, entrances, or similar items) at the Project site other than those designated for use by the Contract Documents.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, 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 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. For the Project site, the Contractor is responsible for vermin control, grounds up-keep, sidewalk maintenance, lawn mowing, weed control, and grounds cleaning.

§ 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, which may be deducted from the Contract Sum via Construction Change Directive.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 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 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, the Contractor shall indemnify and hold harmless the Owner, 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 intentional or 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 that 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.

§ 3.19 Log of Changes

The Contractor shall maintain a current log of all Requests for Information (RFIs), Change Proposal Requests (CPRs), Change Orders, and Construction Change Directives at the site of the Project, and shall provide the Owner and the Architect updated paper and electronic (pdf) copies of said logs at the monthly progress meeting.

§ 3.20 Failure to Perform Work

The Contractor shall be liable to the Owner for all costs and damages that the Owner incurs as a result of the Contractor's failure to perform the Work, or any part thereof, in accordance with the Contract Documents. The Contractor's failure to perform shall include, but not be limited to, the failure of its subcontractors and/or suppliers of any tier to perform. The Contractor's liability to the Owner shall include, but not be limited to, (1) the increased cost of performance, including the services of the Architect and other consultants, resulting from the Contractor's failure to comply with the Contract Documents; (2) the costs of removal of defective or non-compliant work; (3) the costs of corrective or warranty work; (4) liability to third parties caused by the Contractor's failure to perform the Work or any part thereof; (5) re-procurement costs; (6) attorney's fees and related costs, including costs incurred in enforcing the Owner's rights under the Contract Documents; and (7) liquidated and/or stipulated damages.

§ 3.21 Liens

§ 3.21.1 The term "lien" as used in this Section 3.21, in Article 9 of these General Conditions, and in Article 5 of the AIA A101 Agreement between Owner and Contractor (as modified) refers to "claims" as provided for in La. R.S. 38:2242, which authorizes "claimants" who perform work, labor, or provide materials or supplies for a public work to file "claims" with the governing authority. The term "lien" is used in the referenced sections instead of the word "claim" solely to avoid confusion with the "claims" that may be filed by the Contractor and/or Owner pursuant to Article 15 of these General Conditions.

§ 3.21.2 In the event a lien is filed by anyone in relation to the Work, the Owner shall have the right (1) to require the Contractor to furnish to the Owner a release of lien or claim that has been recorded by the person or entity filing the lien; (2) to require the Contractor to discharge the lien by posting a bond with the Clerk of court for the Parish in which the Project is located within five (5) calendar days of notice by the Owner to the Contractor; (3) obtain a Notice of Cancellation Certificate for each filed lien; and/or (4) to retain out of any payment due or thereafter to become due an amount sufficient to indemnify the Owner against any lien or claim of a lien, including bond premium and attorney's fees, and to apply the same in such manner as the Owner deems necessary to satisfy such claims and liens.

§ 3.21.3 In the event such lien is not discharged, the Contractor, at its sole cost and expense (including attorney's fees), shall hold harmless and defend the Owner of and from any and all claims, lawsuits, causes of actions, and demands of any person or entity asserting or claiming any right as a result of any lien or claim, recorded or unrecorded, against the contract funds or the Owner's property. In the event such lien is not discharged, the

Contractor shall be deemed in default and the Owner shall have the right to terminate the Contract for said default. The Owner shall also have the right, but not the obligation, to bond said lien(s); and the Contractor shall be responsible for all costs incurred as a result thereof including, but not limited to, bond premiums and attorney's fees.

§ 3.21.4 Prior to the receipt of any partial payment or of Final Payment, the Contractor shall provide the Owner a partial release or a final release, as appropriate, of all liens and claims of any persons furnishing labor and/or materials to the Work. The Contractor shall not receive Final Payment before providing the Owner satisfactory evidence (i.e. a Clear Lien Certificate) that there are no other liens or claims whatsoever against the Work or the Contract.

§ 3.22 Work Related to Existing Facilities

§ 3.22.1 The Contractor shall not perform Work in existing buildings that will interfere with normal school operations, teaching, or normal traffic flow or that will produce excessive noise without twenty-four (24) hour's written notice to the Owner and then only with the Owner's concurrence. Security of the Owner's property may require the services of a guard during the nights or weekends if required by the nature of the Work, at no additional cost to the Owner.

§ 3.22.2 All means of egress shall be maintained at all times during school occupancy to comply with exit requirements in the NFPA 101 Life Safety Code.

§ 3.22.3 The Contractor shall not allow traffic or operations to encumber school vehicle or pedestrian traffic during school hours to include before school or after school programs. Space for parking of the Contractor's personnel and subcontractors is designated in the Contract Documents.

§ 3.22.4 Any Work required of the Contractor before the opening of school after Summer vacation that is caused by the failure of the Contractor to meet its Contract completion date will be performed as stated above at no additional expense to the Owner. This includes overtime work after normal school hours, during work days and on weekends, when required to accomplish the work necessary to maintain the construction schedule. This provision does not prohibit operation during normal work hours when prior arrangements have been made with the Architect and the Owner.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 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.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in Architect's Contract with Owner and in the Contract Documents and will be to the extent consistent with the Architect's Contract an Owner's representative during construction until the date that both Final Completion of the Project is achieved and the Owner makes Final Payment to the Contractor. The Architect shall remain an Owner's representative from time-to-time during the one-year period for correction of the Work as described in Section 12.2.2.1. In addition, the Owner may request the Architect's assistance and review any time during the five-year period as set forth in La. R.S. 38:2189~~the Architect issues the final Certificate for Payment.~~ 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 and its applicable consultants will visit the site at least weekly and at other times as required or requested by the Owner and at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with and keep the Owner reasonably informed about 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 and the Owner 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.

§ 4.2.3 On the basis of the site visits by the Architect and its consultants, 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 deviations 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.

§ 4.2.4 Communications

The Owner and Contractor shall include 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.

§ 4.2.5 Based on the Architect's evaluations of the Work as provided in Section 4.2.2 and the data comprising the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work or portions of the Work or the Work at one or more sites of a multiple-site Project that does not conform to the Contract Documents. 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 13.4.2 and 13.4.3, 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, 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 a reviewed~~ submittal schedule, with reasonable promptness as to cause no delay in the Work or in the activities of the Owner or the Contractor, 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 of any construction means, methods, techniques, sequences, or procedures. The Architect's ~~review 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, with the prior approval of the Owner, order minor changes in the Work without any increase in cost or time, 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 and its consultants 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; receive and forward to the Owner, for the Owner's review and records, written warranties 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.

§ 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 notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives. Unless the Owner and Architect agree, the Architect will not be required to have a project representative on-site at all times Work is being performed; however, the Architect shall perform on-site observations and inspections as required by Section 3.6 of its Agreement with the Owner.~~

§ 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. If no agreement is made concerning the time within which interpretation required of the Architect shall be furnished in compliance with this Section 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretation until 15 days after written request is made for them.

§ 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.

§ 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. As applicable based upon the value of the Work, subcontractors shall be duly licensed in accordance with La. R.S. 37:2150, et seq., and local laws.

§ 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.

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

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. No payments shall be made to the Contractor until the requested information specified in this subsection is provided to the Architect and the Owner. Subcontractors shall be licensed in compliance with local laws and as required by La. R.S. 37:2150, et seq.

§ 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. The Contractor shall not be entitled to claims for additional time and/or

an increase in the Contract Sum due to a problem with the performance or non-performance of a subcontractor. The Contractor is totally and solely responsible for any lost time or extra expense incurred due to a subcontractor's or material supplier's failure to perform. Under no circumstances shall the Owner or Architect mitigate the Contractor's losses or reimburse the Contractor for losses caused by the Contractor's subcontractors and/or material suppliers.

§ 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. The Contractor shall be solely responsible for the selection and performance of all subcontractors.

§ 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 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by 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 that 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-Optional 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 In the event that the Owner terminates the Contract with the Contractor for cause pursuant to Section 14.2, the Owner may, at its sole discretion, but with no obligation to do so, accept an assignment from the Contractor of one or more then-existing subcontract agreements for a portion of the Work.

- .1 such assignment shall only become effective by a written agreement signed by the Owner 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 such assignment shall be under the terms and conditions expressly accepted by the Owner in a signed writing, and no other terms and conditions shall be imposed by implication; and assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.
- .3 before accepting any assignment of a subcontract agreement, the Owner will consider the prior rights of the surety, if any, and Contractor's unpaid obligations to the subcontractor, if any, and may choose, at the Owner's sole discretion, to reject or refuse an assignment in light of same.

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 in cost resulting from the suspension.

~~§ 5.4.3 Upon 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 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 its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised. The Contractor shall anticipate the work of the Owner or other contractors may delay, disrupt, or interfere with the Work and the progress schedule; and Contractor shall do all cutting, fitting, and patching of the Work required to make its several parts come together properly in a manner that will not endanger any work of others by cutting, excavating, or otherwise altering their work without the written consent of the Owner.

~~**§ 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 excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12. The Owner may furnish materials or equipment to the Project site to be incorporated into the Work. For any Owner-furnished equipment or materials to be incorporated into the Work, the Contractor shall perform such tasks as are necessary to coordinate and install the Owner-furnished material and/or equipment to make the Work functionally complete. If the Contractor contends that such Owner-furnished materials or equipment constitutes an extra to the Work outside the requirements of the Contract Documents, the Contractor may request a change order for direct field costs incurred in installing such Owner-furnished materials or equipment in accordance with the procedure set forth in Article 7.~~

§ 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 notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for 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 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.

§ 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 remedy 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 and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 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 the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 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 order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. A Request for Information (RFI) shall not be recognized as a change in the Contract Documents that involves the Contract Sum or the Contract Time.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and 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 change in the Work may be issued by the Architect, subject to the approval of 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.

§ 7.1.4 Whenever the total cost of change(s) in the Work exceed 10% of the original Contract Sum, the Contractor shall obtain the "consent of the surety" providing the performance and payment bonds to ensure coverage for the additional Work.

§ 7.1.5 As part of the pre-construction conference submittals, the contractor is to submit the following prior to the commencement of work.

Fixed job site overhead cost itemized with documentation to support daily rates.
Bond Premium Rate with supporting information from the General Contractor's carrier.
Labor Burden by trade for both Subcontractors and General Contractor.
Internal Rate Charges for all significant company owned equipment.

Failure to submit this information as part of the pre-construction submittals shall prohibit the Contractor from claiming these items as costs on any change order issued on the project

§ 7.2 Change Orders

§ 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 Any and all changes or adjustments to the Contract Time requested or claimed by the Contractor as a result of a change in the Work shall require documentation and justification for the adjustment by a method analysis of the Contractor's most recent schedule in use prior to the change. Changes that affect or concern activities containing float or slack time (i.e. those not on the critical path) that can be accomplished within said float or slack time shall not result in an increase of the Contract Time.

§ 7.2.3 Methods used in determining adjustments to the Contract Time may include those listed in Section 7.3.3.

§ 7.2.4 A Change Order within the scope of the Contract or a Change Order outside the scope of the Contract in an amount less than \$150,000 may be negotiated or let out for public bid. If negotiated, the Owner and the Architect shall request a cost proposal from the Contractor for all proposed changes in the Work consisting of additions, deletions, or revisions. The cost proposal must be fully itemized as to costs, including material quantities, material costs, taxes, insurance, employee benefits, or other costs, profit and overhead. The Architect shall review the Contractor's proposal and submit a recommendation to the Owner provided funds are available in the authorized budget for the Project. If there are insufficient funds in the budget or if the proposed change exceeds 10% of the Contract Sum or \$100,000, whichever is greater, approval of the budget adjustment or approval of the Change Order requires formal action of the Owner's Board. In such case, only after the Owner's Board approval may the Architect prepare a formal Change Order and direct the Contractor to proceed with the revisions.

§ 7.2.5 In accordance with La. R.S. 38:2222, the Owner will record with the Recorder of Mortgages any Change Order that adds an amount of ten percent (10%) or more of the original contract amount and the amount is at least \$10,000.00 or when the aggregate of all change orders for the Project amount to twenty percent (20%) or more of the original Contract Sum.

§ 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.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order. A Construction Change Directive also may be used to document the amount of Liquidated Damages assessed or fees due to the Architect for additional inspections.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, 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 to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 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 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 ~~below. 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 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 Actual Costs of labor, including applicable payroll taxes, ~~fringe benefits required by agreement or custom,~~ workers' compensation insurance, and other employee costs approved by the Architect; for wages paid for direct labor personnel, the labor burden markup is limited to applicable payroll taxes, worker's compensation insurance, unemployment compensation and social security taxes
- .2 Actual Costs of materials, supplies, and equipment, including cost of transportation used in performing the change in the Work, whether incorporated or consumed;
- .3 Actual Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Actual Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change in the Work
- .6 An allowance for overhead that is to include all pro-rated home office expenses for the Project and profits combined, included in the total costs to the Owner for the purposes of subsections 7.2.1, 7.3.3, and 7.3.7 shall be based on the schedule:

- .1 To the Contractor for Work that is performed with its own forces, not to exceed 15% of its net additional costs;
- .2 To a subcontractor for Work that it performs with its own forces not to exceed 15% of its net additional costs;
- .3 To the Contractor for Work performed by its subcontractor not to exceed 10% of the amount due the subcontractor. These percentages shall be applied to the net additional costs as defined herein. If the net cost value of a change results in a credit from the Contractor or subcontractor, the credit shall be the net cost without overhead or profit. Among items to be considered as overhead are insurance, travel, supervision, superintendent(s), time keepers, clerks, watchmen, small tools, incidentals, job burdens, general office expenses, and all other items not included in the costs as defined in this section;
- .4 Notwithstanding any other provisions in the Contract Documents to the contrary, only demonstrable, direct, out-of-pocket costs plus percentages set forth herein shall be allowable for Change Order work performed concurrently with the Work;
- .5 All sub-subcontractors are considered to have been established solely for the convenience of the General Contractor and its immediate subcontractors. To this effect, allowable subcontractor overhead and profit amount shall not be derived by compounding the established percentages upon themselves through their sub-subcontractors;
- .6 The Contractor shall not submit groups of partial proposals relative to a singular item of change. Requests for time extensions relative to a change shall be identified in the proposal;
- .7 In order to facilitate the checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs, including labor, materials, and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major costs are subcontracts, they also shall be itemized. Proposals should be rounded off to the nearest whole dollar amounts; and
- .8 The Contractor shall sequentially number each of its Cost Change Proposals and further identify each proposal as to cause for the change..

§ 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 in writing 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 shall be recorded as a Change Order.

§ 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 and reviewed by the Owner. 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, the Contractor may request payment for Work completed under the Construction Change Directive 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 and after consultation with the Owner, to be reasonably justified. The Architect's interim 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.

§ 7.3.11 Changes in the Work performed by the Contractor without the approval and consent of the Owner shall be performed at no cost to the Owner and without any adjustment to the Contract Time.

§ 7.3.12 By executing a Change Order, the Contractor acknowledges that:

- .1 The Owner bears no responsibility for the conditions resulting in the change to the scope of the Work;
- .2 The Change Order fully and fairly compensates the Contractor for the Work encompassed by the Change Order;
- .3 Any stated extension of the Contract Time is equitable in nature for the Work encompassed by the Change Order;
- .4 The Contractor waives any further claims for any additional contract sum or contract time for whatever reason and of whatever kind, whether direct or indirect costs, profit, overhead, or any other expense, for the Work encompassed by the Change Order.

§ 7.4 Minor Changes in the Work

Subject to the Owner's approval, ~~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. 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.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 TIME IS OF THE ESSENCE OF THIS CONTRACT. 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 or such other date as may be established in a Notice to Proceed.

§ 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 The Contract Time shall not be changed by the submission of a schedule that shows an early completion date unless specifically authorized by a final, approved Change Order; and the Contractor is specifically prohibited from submitting a schedule that shows an early completion date, unless specifically authorized by a final, approved Change Order.

§ 8.1.6 For all purposes of counting time provided in these Contract Documents, Time shall be counted on a calendar day basis. However, unless otherwise specified, where the due date for any action, submittal, or response falls on a Saturday, Sunday, or legal holiday (as identified in Section 8.1.7), such action, submittal, or response shall be considered due on the next business day that is not a Saturday, Sunday, or legal holiday.

§ 8.1.7 For purposes of this Project, legal holidays shall include the following:

<u>New Year's Day</u>	<u>January 1</u>
<u>Martin Luther King Day</u>	
<u>Mardi Gras Day</u>	
<u>Good Friday</u>	
<u>Memorial Day</u>	<u>Last Monday in May</u>
<u>Independence Day</u>	<u>July 4</u>
<u>Labor Day</u>	<u>First Monday in September</u>
<u>Thanksgiving Day</u>	<u>Fourth Thursday in November</u>

Christmas Eve	December 24
Christmas Day	December 25
New Year's Eve	December 31

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. Substantial Completion of the Work must be made within the time stated in the Agreement between the Owner and the Contractor (subject to such extensions as may be agreed to by Change Order). By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor agrees to commence the Work not later than the date set forth in the Agreement or the written Notice to Proceed issued by the Owner, to achieve Substantial Completion of the Work within the time specified by the Contract Documents, and to achieve completion of the Punch List within the time stated in the Contract Documents. Further, the Contractor agrees to commence On-Site Construction Activities, as defined herein at Section 8.2.2.1, no later than fourteen (14) days after the date of commencement of the Work set forth in the Agreement or in the Notice to Proceed. The Contractor and Owner mutually agree that the Owner's operations will be negatively impacted and the Owner will sustain damage that will be impracticable and extremely difficult to quantify should Substantial Completion of the Project and the completion of the Punch List not be achieved within the time set forth in the Contract Documents. The Contractor and the Contractor's surety shall be liable for and shall pay to the Owner liquidated damages, which shall not be considered a penalty, in the amount stated in the Contract Documents as fixed, agreed upon and Liquidated Damages for each calendar day (Saturdays, Sundays, and legal holidays included) that Substantial Completion is delayed beyond the time stated in the Contract Documents, as more specifically set forth in AIA Document A101, Agreement between Owner and Contractor, as modified by the Owner. The Owner shall be entitled to collect any and all sums that are due the Owner as Liquidated Damages in any manner available including, but not limited to, withholding the amounts due to the Contractor for progress payments or Final Payment, deducting the Liquidated Damages due by a Change Order, Construction Change Directive, or collecting the amounts due from the Contractor or the Contractor's surety. shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.2.1 On-Site Construction Activities are those activities beyond mobilization that include actual and physical progress of the Work on the Project site. By way of example, typical On-Site Construction Activities include, but are not limited to, clearing and grubbing of the Project site, Project site fill, and pile driving.

§ 8.2.2.2 Should the Contractor fail to commence On-Site Construction Activities timely, as set forth in this Section 8.2.2, any future claim that Contractor might submit for an extension of the Contract Time shall be directly reduced by the number of days that the Contractor was late in the commencement of the On-Site Construction Activities as defined herein.

§ 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 materially 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 ~~(45)~~ by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time ~~shall~~may be extended for such reasonable time as the Architect may ~~recommend, subject to the Owner's approval. Said extension shall be memorialized in the form of a Change Order. A claim by the Contractor for an extension of time must be made within the time limits of Subsection 15.1.2. Failure by the Contractor to timely request an extension in accordance with Subsection 15.1.2 shall result in the potential claim being irrevocably waived by Contractor. If the Contractor is delayed at any time in the progress of the Work by any act or neglect stated herein, the required completion date or duration set forth in the progress schedule shall be extended by the amount of time that the Contractor shall have been delayed thereby. However, the Owner shall not be responsible for any loss, damage, or additional costs sustained by the Contractor through delay caused by the Owner, its agents, or employees, except for additional time, but no additional money determine.~~ The Contractor will be due extended fixed job-site overhead for time delays only

when complete stoppage of work occurs causing a contract completion extension, and the Contractor is unable to mitigate financial damages through replacement work. The stoppage must be due to acts or omissions solely attributable to the Owner or third parties over which the Owner has no control. In all cases the Contractor is to notify the Designer in writing as required by herein Article 4

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 and Section 15.1.5 preclude recovery of monetary damages by the Contractor for delay due to weather. does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 Time is the essence of the Contract. The Owner's operations will be impacted and delayed if the Project is not substantially complete within the time set forth in the Contract Documents. The Contractor and the Contractor's surety shall be liable for and shall pay to the Owner the sum stated in the Contract Documents as fixed, agreed and liquidated damages for each consecutive calendar day (Saturdays, Sundays and legal holidays included) of delay until the Work is substantially complete or as applicable until the Work is finally complete. Such liquidated damages shall be withheld by the Owner from the amounts due the Contractor for progress payments and deducted from the Contract Sum by a Change Order or Construction Change Directive signed only by the Owner and the Architect.

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 causes substantial inequity to the Owner or Contractor, the applicable unit prices ~~shall~~may be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor, at the Pre-Construction Meeting, shall submit a schedule of values to the ~~Architect before the first Application for Payment~~, 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. In the Schedule, the Contractor shall include the costs for work for each section listed under each division. The costs for each section shall include labor, materials, overhead, and profit. The total of all items shall equal the total Contract Sum. For a Project that includes multiple buildings, sites, or locations, the Schedule of Values shall be allocated for each separate building, site, or location. In addition, the Contractor shall list and identify all subcontractors, all sub-subcontractors, and suppliers, as well as their contract amount, in the Schedule of Values.

§ 9.2.1 In order to facilitate the review of Applications for Payment, the Schedule of Values shall be submitted for review and approval on AIA Documents G702 and G703, and shall include the following:

- .1 Contractor's costs for the Contractor's fee (if applicable), bonds and insurance, mobilization, general conditions, etc., which shall be listed as individual line items.
- .2 Contractor's costs for various construction items shall be detailed. For example, concrete work shall be sub-divided into footings, grade beams, floor slabs, paving, etc.
- .3 On major subcontracts, such as mechanical, electrical, and plumbing, the schedule shall indicate line items and amounts in detail. For example, underground, major equipment, fixtures, installation fixtures, start-up, etc.
- .4 Costs for subcontract work shall be listed without any additional mark-up of Contractor's costs for overhead, profit, or supervision.
- .5 If payment for stored materials is requested prior to installation, then material and labor shall be listed as separate line items.
- .6 The Schedule of Values approved by the Architect shall be used as a basis for reviewing the Contractor's Applications for Payment.

.7 A clear designation of any of the Work to be performed by the Contractor with its own employees.

.8 A list of names and business domiciles of all subcontractors, manufacturers, suppliers, or other persons or organizations (including those who are to furnish materials or equipment).

§ 9.3 Applications for Payment

§ 9.3.1 ~~At least ten days before the date established for each progress payment~~ Monthly, 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 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 suppliers, and shall reflect retainage if provided for in the Contract Documents.~~ The Application for Payment shall be submitted no later than the tenth (10th) day of each month for the value of labor and materials incorporated into the Work and of materials, suitably stored at the site, as of the last day of the preceding month, less normal retainage, as set forth in Section 9.3.1.1. Off-site storage of materials may be allowed (see Section 9.3.2).

§ 9.3.1.1 Normal retainage for projects with a Contract Sum of less than \$500,000.00 shall be 10% of the total Contract Sum. Normal retainage for projects with a Contract Sum of \$500,000.00 or more shall be 5% of the total Contract Sum. 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 Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 No payment shall be made until the revised Construction Schedule required by Section 3.10.1, as well as all subcontractor lien releases as required by Article 2.1.2 are received by the Owner and the Architect. Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.1.3 The normal retainage shall not be due the Contractor until after all of the following have occurred: (1) Substantial Completion has been achieved; (2) the Architect has prepared and the Owner has approved and accepted the Certificate of Substantial Completion, including an attached Punch List meeting the requirements of Sections 9.8.4 and 9.8.5; (3) the Contractor has submitted an Application for Payment for the Retainage; (4) the Contractor has provided the Owner with a fully completed, executed, and notarized Contractor's Conditional Waiver of Lien for Current Progress Payment and Unconditional Waiver of Lien for Prior Progress Payments, in the form attached to the Agreement Between the Owner and Contractor, AIA Document A101, as modified; (5) the forty-five (45) day lien period as set forth in La. R.S. 38:2242 has expired; and (6) the Contractor has provided the Owner and the Architect with an original, certified Clear Lien and Privilege Certificate issued by the Clerk of Court for the Parish in which the Project is located. If there are insufficient funds remaining in the Contract Sum to both pay the normal retainage and cover the value assigned to the Punch List (as set forth in Section 9.8.5), then the Owner shall withhold payment of the normal retainage to the extent necessary to cover the shortfall. If the value of the Punch List (as set forth in Section 9.8.5) exceeds the funds remaining in the Contract Sum, including the normal retainage, the Contractor shall not be entitled to the payment of retainage. Instead, the Contractor and its surety shall be liable for and shall pay the shortfall to the Owner.

§ 9.3.1.4 Work performed and materials supplied under a Change Order may be included for payment only after the Change Order has been approved in writing by the Owner and all other appropriate parties, as more specifically set forth in Section 7.2.1 above.

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

§ 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 in a bonded warehouse 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 submission by the Contractor of bills of sale or such other documentation 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.

§ 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, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.3.4 If requested or required by the Owner, each Application for Payment for a progress payment shall be accompanied by a fully completed, executed, and notarized Contractor's Conditional Waiver of Lien for Current Progress Payment and Unconditional Waiver of Lien for Prior Progress Payments, in the form attached to the Agreement Between Owner and Contractor, AIA Document A101, as modified. The Application for Final Payment shall be accompanied by a fully completed, executed, and notarized Contractor's Unconditional Waiver of Lien Upon Final Payment in the form attached to the Agreement Between Owner and Contractor, AIA Document A101, as modified. Payment Applications that fail to include these waivers will not be paid.

§ 9.3.5 The Contractor further expressly undertakes to defend the Owner, at the Contractor's sole expense, against any actions, lawsuits, or proceedings brought against the Owner as a result of liens filed against the Work, the job site, and any improvements thereon, any portion of the property of the Owner, or any payments due the Contractor (referred to collectively as "liens" in this Section 9.3) by those providing labor, materials, or equipment on behalf of the Contractor. The Contractor hereby agrees to defend, indemnify, and save the Owner harmless against any such liens, actions, claims, or lawsuits; and agrees to pay any judgment or lien resulting from any such action, lawsuit, or proceeding, to include all attorney's fees incurred.

§ 9.4 Certificates 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 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 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 for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, 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 for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum. Examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's accountants or other representatives acting in the sole interest of the Owner.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect ~~may~~ shall withhold or reject a Certificate 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 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 for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate 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 and/or liens filed or reasonable evidence indicating probable filing of such claims/liens, in the amount of 125% of the claim/lien, 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;
- .5 damage to the Owner, the Owner's property, 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.
- .8 the value of the Punch List exceeds the unpaid balance of the Contract Sum;
- .9 rejection of any part of the Work by any governmental authority having jurisdiction over the Project;
- .10 if the Project is behind schedule, failure by the Contractor to submit a written plan to regain the time schedule to ensure completion of the Work within the Contract Time;
- .11 improperly completed or inadequately documented or supported Application(s) for Payment. The omission of any required documents from the Application for Payment, including but not limited to lien waivers, all documents required herein, all documents required by the Specifications, and all documents required elsewhere such as an approved Construction Schedule or lack of an approved Schedule of Values, shall result in rejection.

§ 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.

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

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed 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 reflect such payment on its next Application for Payment.

§ 9.5.5 The Owner shall not be deemed to be in breach of this Contract by reason of the withholding of any payment pursuant to any provision of the Contract Documents if the Work for which payment shall have been withheld has been rejected by the Owner, the Architect or any governmental authority or agency

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has ~~issued-certified~~ a Certificate for Payment, the Owner shall make payment within fourteen (14) days after the Owner's receipt of the valid Certificate of Payment certified by the Architect in the manner and within the time provided in the Contract Documents, and shall so notify the Architect of the payment. Erroneous Certificates of Payment may cause delays in the processing of a payment. Such delay(s) shall not constitute cause for claims by the Contractor for additional Contract Sum or Contract Time.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than fourteen (14) ~~seven~~ days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. La. R.S. 9:2784(A) and (C) require a contractor or subcontractor to make payment due to each subcontractor or supplier within fourteen (14) consecutive days of receipt of payment from the Owner. If not paid, a penalty in the amount of one-half of one percent per day is due, up to a maximum of fifteen percent (15%) from the expiration date until paid. The contractor or subcontractor, whichever is applicable, is solely responsible for the payment of any penalty.

§ 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 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 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.

§ 9.6.5 The Contractor's payments to 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 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 If the Owner receives any claim of non-payment from a subcontractor, sub-subcontractor, material or equipment supplier, or the like, arising out of the Contract, the Owner shall deduct 125% of such claim from any payment otherwise due the Contractor. The Contractor, or any interested party, may deposit security with the Recorder of Mortgages of the Parish where the Work is being performed in accordance with La. R.S. .38:2242.2 to guarantee payment of the claim. When the Owner receives sufficient proof of such guarantee from the Recorder of Mortgages and/or Clerk of Court, the deducted amount will be added back to the Contract Sum at the next payment. 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 a 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 entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 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 Failure of Payment

~~DELETED. 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 shutdown, delay and start-up, plus interest as provided for in the Contract Documents.~~

§ 9.8 Substantial Completion

§ 9.8.1 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. The Architect shall determine if the Project is substantially complete in accordance with this Article 9.8. In addition to the requirements of the first sentence of this Article 9.8.1, the following conditions must also be satisfied before the Work will be considered substantially complete:

- (1) Where roofing work is part of the Contract, the Owner must receive the executed Roofing Contractor's and Roofing Manufacturer's guarantees, which shall meet all of the requirements of the Construction Documents and Specifications;
- (2) All required occupancy permits must have been issued and copies delivered to the Owner;

- (3) All Project systems included in the Work must be operational as designed;
- (4) The Owner's personnel must have completed any required training in the Project's operations systems;
- (5) All finishes required by the Contract Documents must be in place;
- (6) The only remaining work must be minor in nature so that the Owner can occupy the building/construction and the Contractor's completion of that minor remaining work will not interfere with nor hamper the Owner's normal business operations. This shall include completion and verification by the Owner's designated commissioning authority for all outstanding commissioning issues;
- (7) The Contractor must certify in writing that all remaining Work will be completed within forty-five (45) consecutive calendar days, unless the Owner consents to a different time, following the date of Substantial Completion. Any remaining Work required to be performed after the date of Substantial Completion at a school that is operating and open shall be done in a manner and during times that do not interfere with school operations, at no additional cost to the Owner. The Owner shall have the right to direct the Contractor to perform said Work, at no additional cost, during non-operating hours of the school, including nights and weekends; and
- (8) All warranties to be effective as the date of Substantial Completion fully signed and dated.

§ 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.

§ 9.8.2.1 Prior to inspection by the Architect as required in Subparagraph 9.8.3, the Contractor shall notify the Architect that the Project is ready for inspection by the State Fire Marshal's office. A "punch list" of items not completed and the dollar value related thereto will be prepared by the Architect. A monetary value will be assigned to this list, which is approximately twice the estimated actual value of the "punch list" work. Cost of these items shall be prepared in the same format as the schedule of values. None of these funds shall be due the Contractor until all punch list items are completed and are accepted by the Architect. If the dollar value of the punch list exceeds the amount of funds, less the retainage amount in the remaining balance of the Contract, then the project shall not be accepted as substantially complete. If funds remaining are less than that required to complete the work, the Contractor shall pay the difference. At the end of the lien period, payment shall be approved for all punch list items completed up to that time. After that payment, none of the remaining funds shall be due the contractor until all punch list items are completed and are accepted by the Architect

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. Prior to inspection by the Architect, the Contractor shall notify the Architect that the Project is ready for inspection by the State Fire Marshal's Office. 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. If the Architect determines that the Work is still not substantially complete, the Architect and each of the Architect's principal consultants shall be paid \$200.00 per hour for their time for each additional inspection authorized by the Owner, which shall be withheld from the unpaid funds remaining in the Contract Sum. The payment shall be paid by the Owner and deducted from the Contract Sum via either a Change Order or Construction Change Directive. If no funds remain, the Contractor and the surety shall pay the amount.

§ 9.8.4 When the Architect determines, and the Owner agrees, that the Project is Substantially Complete, the Architect shall prepare a Certificate of Substantial Completion that establishes the Date of Substantial Completion for the Work. The Architect shall prepare and attach a "Punch List" of exceptions itemizing additional Work remaining to be done by the Contractor, as set forth more fully in Section 9.8.5. Failure to include an item on the Punch List shall not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work, unless otherwise agreed to in writing by the Owner and the Contractor. Security, maintenance, heat, utilities, damage to the Work not covered by the Punch List and insurance shall become the Owner's responsibility on the date of Substantial Completion, unless otherwise agreed to in writing by the Owner and the Contractor. 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; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and 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.

§ 9.8.4.1 The Architect or Owner may add items to the punch list for the first 30 days following Substantial Completion. Thereafter incomplete or deficient work shall be completed and/or repaired as acceptable to the Owner and Architect by the Contractor as required by the Contract. Any items added during the 30-day period that are not completed prior to final completion, must be completed during the correction-of-work period.”

§ 9.8.4.2 Upon expiration of the applicable lien period, the Contractor shall obtain the Clear Lien and Privilege Certificate and forward the certificate with final payment requests to the Architect

§ 9.8.5 The Punch List of exceptions prepared by the Architect shall itemize additional Work remaining to be done by the Contractor, and the dollar value related thereto. The cost of these items shall be prepared in the same format as the Schedule of Values. The monetary value assigned to each item of the Punch List shall be 125% of the sum of the cost estimate for each particular item or required work, and will be estimated by the Architect based upon the mobilization, labor, material, and equipment costs of correcting the item. The value assigned to the Punch List shall be retained from the monies owed the Contractor, above and beyond normal retainage. No funds assigned for the Punch List value shall be due to the Contractor before the Punch List items are completed and accepted by the Architect and the Owner. Upon expiration of the forty-five day lien period, Contractor shall request payment for punch list items satisfactorily completed. After review by the Architect to determine whether the punch list items have been satisfactorily completed, the Owner shall release payment in accordance with this Article. No additional payments for punch list work will be issued by the Owner until the Contractor completes all punch list work. If the dollar value of the Punch List exceeds the amount of funds, less retainage amount, in the remaining balance of the Contract, then the Project shall not be accepted as substantially complete. If funds remaining in the Contract balance are less than that required to complete the Punch List work, then the Contractor or its surety shall pay the difference. 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 make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 The Contractor shall complete the Punch List items within forty-five (45) consecutive calendar days from the date of Substantial Completion. The Owner, at its option, may consent to a different time, but such consent shall be reflected in writing. If the Contractor fails to complete all Punch List items within this forty-five (45) day period, through no fault of the Owner or Architect, the Contractor shall be assessed liquidated damages in the amount set forth in the Agreement between Owner and Contractor (AIA Document A101, as modified) for each additional calendar day beyond the forty-five (45) day period that the Punch List remains incomplete. Further, if the Contractor fails to complete all Punch List items within this forty-five (45) day period, through no fault of the Owner or Architect, then the Owner may hold the Contractor in default. If the Owner finds the Contractor in default, the surety shall be notified. If, within forty-five (45) days after notification of the default by the Owner to the surety, the surety has not completed the Punch List work, through no fault of the Owner or Architect, the Owner may, at its option, contract with an outside party or parties to have the remainder of the work completed and pay for such work with the unpaid funds remaining in the Contract Sum. Finding the Contractor in default shall constitute grounds for disqualification of the Contractor from bidding on future State or Owner contracts. If the surety fails to complete the Punch List work within the stipulated time period, the Owner may choose to not accept bonds submitted from the surety in the future.

§ 9.8.7 The Certificate of Substantial Completion shall be submitted to the Owner and the Contractor for their written acceptance of responsibilities assigned to them in such Certificate. After such acceptance, and consent of the surety, the Contractor may submit to the Owner a properly completed and supported Application for Payment seeking payment for completed work, less the value assigned to the Punch List items, as set forth in and limited by Section 9.8.5 above. Such Application for Payment shall not request payment for work that is incomplete and/or not in accordance with the requirements of the Contract Documents.

§ 9.8.8 The Contractor shall record the fully executed Certificate of Substantial Completion with the Clerk of Court for the Parish in which the Project is located, and shall provide written evidence of such recordation to the Owner

and the Architect. If the Certificate of Substantial Completion has not been recorded within seven (7) days after issuance, the Owner may record the Certificate at the Contractor's expense.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 Partial Occupancy is that state in the progress of the Work when a designated portion of the Work is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the designated portion of the Work for its intended use. The Owner may occupy or use any substantially completed ~~or partially completed~~ portion of the Work ~~at any stage~~ when such portion is so 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 correction 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.~~

§ 9.9.1.1 Occupancy by the Owner shall not be construed by the Contractor as being an acceptance of that part of the Project to be occupied.

§ 9.9.1.2 Occupancy by the Owner shall not be deemed to constitute a waiver of existing claims on behalf of the Owner or Contractor against each other.

§ 9.9.1.3 If the Project consists of more than one building, and one of the buildings is to be occupied, the Owner, prior to occupancy of that building, shall secure permanent property insurance on the building to be occupied, as well as any necessary permits that may be required for use and occupancy.

§ 9.9.1.4 Use and occupancy by the Owner prior to Project acceptance shall not relieve the Contractor of the responsibility to maintain all insurance and bonds required of the Contractor under the Contract Documents until the entire Project is completed and accepted by the Owner.

§ 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.

§ 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 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 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 the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. If the Architect does not find the Work acceptable in accordance with the Contract Documents, the Architect shall make one additional inspection. If the Work is still not acceptable, the Architect and each of the Architect's principal consultants shall be paid \$200.00 per hour for their time for each additional inspection authorized by the Owner, which shall be withheld from the unpaid funds remaining in the Contract Sum. The payment shall be paid by the Owner and deducted from the Contract Sum via either a Change Order or Construction Change Directive. If no funds remain, the Contractor and the surety shall pay the amount. 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.

§ 9.10.2 The Contractor shall deliver the following items to the Architect and the Owner within forty-five (45) days following Substantial Completion 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, (3) a written statement that the Contractor knows of no 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 manufacturers' 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 waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, 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.

§ 9.10.2.1 In addition to the items listed in Section 9.10.2 above, the Contractor shall deliver the following items to the Architect within forty-five (45) days following the date of Substantial Completion. Neither Final Payment nor any remaining retained percentage shall become due until the Contractor submits all of the required documents and information.

- (1) All close-out submittals specified in the Specifications;
- (2) All project record documents specified in the Specifications;
- (3) All approved submittals;
- (4) All approved shop drawings;
- (5) All final as-built drawings, in both paper and electronic (pdf) format;
- (6) Electronic (pdf) and paper copies of all operations and maintenance data specified in the Specifications;
- (7) All warranties as required on specific products or portions of the Work, including subcontractor warranty letters;
- (8) All spare parts, overages, and maintenance materials specified in the Specifications;
- (9) Certificates of Occupancy from authorities having jurisdiction over the Project;
- (10) Copies of all inspection tags from authorities having jurisdiction over the Project;
- (11) Executed Certificate(s) of Substantial Completion;
- (12) A fully completed, executed, and notarized Contractor's Unconditional Waiver of Lien Upon Final Payment, in the form attached as Exhibit B to the Agreement Between the Owner and Contractor (AIA Document A101-2007, as modified).

§ 9.10.2.2 Upon receipt by the Architect of all Project close-out documents and a recommendation by the Architect of acceptance of Final Completion, a close-out meeting will be scheduled by the Architect, to include the Architect, the Owner, and the Contractor for the review and acceptance of all of the required items identified in this Section 9.10.2. If all items are complete and accepted by the Owner, the Owner will then authorize the issuance of Final Payment.

§ 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.

§ 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;

- .5 any warranty or right of action provided by law;
- .6 any Work not in accordance with the Contract Documents in the One Year Correction Period; or
- .7 any liquidated damages.

§ 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.

§ 9.11 Liquidated Damages

As more specifically set forth in AIA Document A101-2007, as modified, the Contractor's failure to achieve Substantial Completion of the Project within the Contract Time as provided in the Contract Documents, as well as any failure on the part of the Contractor to complete the Punch List within the time allotted by the Contract Documents, shall each result in the imposition of liquidated damages against the Contractor. As further set forth in the Agreement, and in Sections 8.2.2 and 9.8.6 above, it is mutually agreed by the Contractor and the Owner that the Owner's operations will be negatively impacted, and the Owner will sustain damage that will be impracticable and extremely difficult to quantify should Contractor fail to achieve Substantial Completion of the Project and/or complete the Punch List within the time set forth in the Agreement. The Contractor and the Contractor's surety shall be liable for and shall pay to the Owner liquidated damages, which shall not be considered a penalty, in the amount stated in the Contract Documents as fixed, agreed-upon and liquidated damages for each calendar day (Saturdays, Sundays, and legal holidays included) that Substantial Completion is delayed beyond the time stated in the Agreement, and for each calendar day that completion of the Punch List is delayed beyond the time stated in the Agreement. The Owner shall be entitled to collect any and all sums that are due the Owner as liquidated damages in any manner available, including, but not limited to, the withholding of the amounts due to the Contractor for progress payments or Final Payment, deducting the liquidated damages due by a Change Order or Construction Change Directive, or collecting the amounts due from the Contractor or the Contractor's surety. The Contractor and the Contractor's surety hereby agree and will be held liable for any liquidated damages imposed in accordance with the Contract Documents.

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 precautions for safety of, and shall provide reasonable 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; 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.
- .4 the indoor air quality of buildings where students, teachers, employees, and visitors occupy the areas adjacent to the Project site;
- .5 the exhaust systems and existing fresh air intake devices to prevent dust or fumes caused by the Work from entering such systems; and
- .6 the Contractor expressly agrees that it is exclusively responsible for compliance with the Occupational Safety and Health Act (OSHA) and State and local regulations for the construction in that it is the "employer" within the meaning of those regulations. It is the expressed intent of the parties that the Contractor, and neither the Architect nor the Owner is in charge of the Work. Any provision in the Contract Documents in conflict with this paragraph shall be null and void.

§ 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 the health and safety of persons or property or their protection from damage, injury, or loss. The Contractor shall provide for the marking of all underground utilities prior to any digging, excavation, or other disturbances of earth and provide the Louisiana One Call reference number to the Architect and the Owner.

§ 10.2.3 The Contractor shall implement, 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.

§ 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.

§ 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 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.

§ 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. The Contractor shall immediately make an oral report to the Architect and the Owner and promptly provide a written report to the Architect and the Owner about all accidents that cause death, personal injury, interrupt utility services, or property damage arising out of or in connection with the Work.

§ 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, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 243 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter. This notice does not replace or supplant the shorter notice required by Section 10.2.6 above.

§ 10.2.9 Security of Site

The Contractor is solely responsible for the security of all equipment, tools or other property of the Contractor, its subcontractors, and its suppliers at the Project site, which includes any loss or damage due to theft or vandalism. The Contractor shall provide for any security at the site.

§ 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 materials 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, lead 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 only and notify the Owner and Architect of the condition. Mold shall not be considered to be hazardous for the purposes of this Section; however, the Contractor should notify the Owner and the Architect in writing of the presence of black mold on building components in any affected areas of the Project. The Owner is responsible to assess any area of the Project where mold is observed. The Owner will provide for remediation of mold in any affected area of the Project. The Owner will advise the Architect and the Contractor upon completion of the remediation of any affected area. There are no clear standards set regarding exposure levels for mold since mold is generally present everywhere. The presence of mold in an area of the Project shall not affect the remaining areas of the Project, and the Contractor shall continue with Work in all unaffected areas of the Project.

§ 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 such as asbestos, PCB, or lead reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered 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 either 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 notice issued by the Owner or Architect agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up, if any, of any affected area of the Project, which adjustments shall be accompanied as provided for in Article 7.

§ 10.3.3 ~~DELETED. To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, 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 in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, 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), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.~~

§ 10.3.4 The Owner 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.

§ 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 its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 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 except when prior notification is required in the Contract Documents regarding mold or handling removal of materials showing the presence of mold.

§ 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 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.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such 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.

§ 11.1.2.1 The Contractor/Subcontractor's insurer shall have no right of recovery or subrogation against the Owner or the Owner's Lessor (if any), it being the intention of the parties that the insurance policies so affected shall protect both parties and the primary coverage for any and all losses covered by the below-described insurance. The Contractor shall provide a specific waiver of subrogation for the Worker's Compensation coverage.

§ 11.1.2.2 The Owner and the Owner's Lessor, if any, shall be named as an additional insured, using ISO Form CG 2010 (11/85), as regards to negligence by the Contractor.

§ 11.1.2.3 The insurance companies issuing the policy or policies shall have no recourse against the Owner for payment of any premiums or for assessments under any form of policy.

§ 11.1.2.4 Any and all deductibles in the below-described insurance policies shall be assumed by, be for the amount of, and at the sole risk of the Contractor.

§ 11.1.3 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 authorize a copy to be furnished. 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, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 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 as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, 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 damage.

§ 11.1.3.1 Worker's Compensation – Statutory – in compliance with the Worker's Compensation Laws of the State of Louisiana. Exception: Employer's Liability to be \$1,000,000.00 when the work is to be over water and involves maritime exposures.

§ 11.1.3.2 Commercial General Liability Insurance with a combined single limit per occurrence for bodily injury and property damage. This insurance shall include coverage for bodily injury and property damage, and indicate on the Certificate of Insurance which of the seven (7) coverages required below are not included in the policy, if any:

- (1) Premises – Operations;
- (2) Broad Form Contractual Liability;
- (3) Products and Completed Operations;
- (4) Use of Independent Contractors and Subcontractors;
- (5) Personal and Advertising Injury;
- (6) Broad Form Property Damage;
- (7) Explosion, Collapse and Underground (XCU) Coverage

Note: On the certification of insurance, under the description of operations, the following wording is required: THE AGGREGATE LOSS LIMIT APPLIES TO EACH PROJECT, or a copy of ISO Form CG 2503 (Ed. 11-85) shall be submitted.

Note: The Products and Completed Operations shall be maintained for two (2) years after the date of recordation of the Certificate of Substantial Completion.

COMBINED SINGLE LIMIT (CSL) - AMOUNT OF INSURANCE REQUIRED

<u>Type of Construction</u>	<u>Projects Under \$100,000</u>	<u>Projects \$100,001-\$1,000,000</u>	<u>Projects over \$1,000,000</u>
<u>Each Occurrence (Minimum Limit)</u>	<u>\$500,000</u>	<u>\$1,000,000</u>	<u>\$3,000,000</u>
<u>Aggregate</u>	<u>\$1,000,000</u>	<u>\$2,000,000</u>	<u>\$6,000,000</u>

§ 11.1.3.3 Business Automobile Liability Insurance with a combined single limit of \$1,000,000 per occurrence for bodily injury and property damage, unless otherwise indicated. This insurance shall include for bodily injury and property damage the following coverages and at least as provided by ISO Form CA0001 (12/90):

- .1 Owned automobiles;
- .2 Hired automobiles;
- .3 Non-owned automobiles

§ 11.1.3.4 An Umbrella Policy may be used to meet minimum requirements.

§ 11.1.3.5 For a project involving roofing work, the Contractor's General Liability coverage must include a pollution liability coverage extension that affords coverage for claims resulting from jobsite fumes and vapors. In the event the roofing work is to be performed by a Subcontractor, the Contractor shall require the Subcontractor to provide a Certificate of Insurance for General Liability coverage with a pollution liability coverage extension that affords coverage for claims resulting from jobsite fumes and vapors. In such case, the Subcontractor shall have the Owner named as an additional insured and the Certificate of Insurance shall comply with the other requirements set forth in Article 11.

§ 11.1.3.6 All property losses shall be made payable to and adjusted with the Owner.

§ 11.1.3.7 All policies of insurance and certificates of insurance shall be approved by the Owner's insurance advisor prior to the Owner's signing of the Contract.

§ 11.1.3.8 Other insurance required is as follows:

§ 11.1.3.8.1 Owner's and Contractor's Protective Liability Insurance shall be furnished by the Contractor and name the Owner as the Insured.

	<u>Projects \$100,001 - \$1,000,000</u>	<u>Projects over \$1,000,000</u>
<u>CSL – Each Occurrence</u>	<u>\$1,000,000</u>	<u>\$3,000,000</u>

§ 11.1.3.8.2 Asbestos Abatement Liability (required when asbestos abatement is included in the Work)

The Contractor or Subcontractor who will be doing the asbestos abatement as outlined in the Contract Documents for an asbestos abatement Project shall obtain and maintain such liability coverage for the asbestos abatement hazard and exposure with minimum limits of \$1,000,000 per occurrence for the duration of the Project. The policy shall name the Owner as an additional insured for the Project. The policy shall be written on an "occurrence" form without a sunset clause. Claims-made coverage shall be unacceptable. The insurance company shall have an A.M. Best rating of at least A-VI or better or written through Lloyds of London or Institute of London Underwriter (ILU) companies.

§ 11.1.3.8.3 Property Insurance The Contractor shall purchase and maintain, with a company or companies lawfully authorized to do business in the State of Louisiana, property insurance written on a Builder's Risk "All Risk" of direct physical loss or damage or equivalent policy form in the amount of the initial Contract Sum, plus the value of all subsequent Contract modifications and the cost of materials supplied or installed by others, comprising the total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property as required by

this Section 11.4 to be covered, whichever is later. This insurance shall include the interests of the Owner, the Contractor, subcontractors, and sub-subcontractors in the Project. Any deductible under the policy per claim for loss or damage shall be paid by the Contractor. A copy of the policy shall be provided by the Contractor to the Architect and the Owner.

§ 11.1.3.8.3.1 Property insurance shall be on an “all-risk” or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for the Architect’s services and expenses required as a result of such insured loss.

§ 11.1.3.8.3.2 The Contractor may, at its option and cost, provide additional insurance that will protect the Contractor’s interest, as well as that of its subcontractors, in the Work to include their tools, equipment and fixtures.

§ 11.1.3.8.3.3 This property insurance shall cover portions of the Work stored off-site, and also portions of the Work in transit.

§ 11.1.3.8.3.4 In the event of a loss or claim, the Contractor shall notify the Architect and the Owner, with confirmation in writing, providing all information such as type of loss, approximate extent of damage, location of loss, and Project number.

§ 11.1.3.8.3.5 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.1.3.9 Risks and indemnifications Assumed by the Contractor

§ 11.1.3.9.1 If any of the Property and Casualty Insurance requirements are not complied with at their renewal dates, payments to the Contractor shall be withheld until those requirements have been met or, at the option of the Owner, the Owner may pay the renewal premium(s) and deduct said payments from any payments due the Contractor.

§ 11.1.3.9.2 If at any time any of the foregoing policies shall be or become unsatisfactory to the Owner, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Owner, the Contractor shall, upon notice to that effect from the Owner, promptly obtain a new policy, submit the same to the Owner for approval and submit a certificate thereof as hereinabove provided. Upon failure of the Contractor to furnish, deliver, and maintain such insurance as above provided, this Contract, at the election of the Owner, may be forthwith declared suspended, discontinued, or terminated. Failure of the Contractor to take out and/or maintain, or the taking out and/or maintenance of any required insurance, shall not relieve the Contractor from any liability under the Contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Contractor concerning indemnification. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

§ 11.1.3.10 Subcontractors

The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

§ 11.1.3.11 Certificates of Insurance

Prior to signing the Contract, the Contractor shall furnish to the Owner the Certificates of Insurance stating the coverages required by Article 11. The Certificates for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. The Certificates must be approved by the Owner’s insurance consultant, and shall include, where applicable, the Owner and the Owner’s Lessor, if any, as additional insured(s). Updated Certificates must be submitted to the Owner prior to the expiration of any coverage to allow for review by the Owner’s insurance consultant. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.

§ 11.1.4 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 cured 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.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner 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.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere 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 cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure 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 thereto.

§ 11.2.3 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.

§ 11.3 ~~Waivers of Subrogation~~ Verification of Coverage

§ 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 causes 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, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, 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 this 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. The Contractor shall furnish the Owner with Certificates of Insurance affecting the coverage required herein. The Certificate for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. The Owner reserves the right to require complete, certified copies of all required insurance policies, at any time.~~

§ 11.3.2 Statutory Employee Status

If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent 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. Pursuant to the directive of Act 315 of the 1997 Louisiana Regular Session regarding guidelines for determining statutory employer status under La. R.S. 23:1061, effective June 17, 1997, and in consideration thereof:

- .1 The Owner and Contractor jointly agree, stipulate, and recognize that the Owner shall be the Statutory Employer pursuant to La. R.S. 23:1061 of any and all of the Contractor's employees and/or employees of any subcontractor hired or retained in any manner by the Contractor while the Contractor's employees and/or subcontractor's employees are performing any work and all work and/or any services under the contract between the Owner and the Contractor.
- .2 The Owner and Contractor further stipulate, agree, and recognize that all work performed under the contract between Owner and Contractor shall be considered part of the Owner's trade, business, or occupation and shall be specifically considered an integral part of and essential to the ability of the Owner to generate goods, products, or services as a Parish School Board.
- .3 The Owner and Contractor further stipulate, agree, and recognize that the services or work provided by any subcontractor hired or retained by the Contractor for the performance of any work and/or services under this Contract shall be contemplated by and included in this Contract.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance Deductibles and Self Insured Retentions

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 hazards however caused. Any deductible or self-insured retentions must be declared to and approved by the Owner. At the option of the Owner, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as it respects the Owner, its officers, officials, employees, Board, and volunteers or (2) the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 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 mortgagee 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 consultants and Subcontractors in similar manner.

§ 11.5.2 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 or the Owner 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.

§ 11.6 PERFORMANCE AND PAYMENT BOND

§ 11.6.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising out of the performance of the Work in the amount of 100% of the

Contract Sum, as stipulated in the bidding requirements or as specifically required by the Contract Documents as of the date of execution of the Contract.

§ 11.6.2 Upon the request of any person or entity appearing to be a beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.6.3 The Contractor shall record, prior the start of Work, the Complete Contract between Owner and Contractor, together with the Performance and Payment Bond(s), with the Clerk of Court for the Parish of in which the Project is located. The Contractor shall furnish the recording information, including the Instrument Number, to the Owner and the Architect. In addition, when a change order adds an amount of ten percent (10%) or more to the original Contract Sum or meets the other requirements of La. R.S. 38:2222, the Contractor shall record any such change order.

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 or the Owner'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 or Contract Sum.

§ 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 an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering and replacing the Work, and the cost of correction, shall be at the Contractor's expense.

§ 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, 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.

§ 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 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 by the Architect to be not in accordance with the requirements of the Contract Documents, the Contractor, at its sole expense, shall correct it promptly within ten 1(10) days after receipt of notice from the Owner or the Architect to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner or the Architect 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. Additionally, if the Contractor fails to correct non-conforming or defective Work, the Owner may hold the Contractor in default and notify the surety.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion 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 (see La. R.S. 38:2189) other than specifically to correct the Work.

§ 12.2.6 The Owner shall have the right to operate non-conforming equipment until defects are corrected and warranties are met; and the Owner shall have the right to operate rejected equipment until replaced, without charge for depreciation, use, or wear.

§ 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.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

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 15.4.~~

§ 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. ~~Except as provided in Section 13.2.2, n~~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.~~

§ 13.3 Rights and Remedies

§ 13.3.1 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.

§ 13.3.2 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.

§ 13.3.3 The Judicial District Court for the Parish in which the Project is located shall possess sole and exclusive jurisdiction and venue for any action arising from this Agreement. In the event of diversity for purposes of federal court jurisdiction or any other cause of action that may allow for federal jurisdiction or venue, the Contractor, its surety, its subcontractors, and suppliers specifically waive any right or cause of action to be filed, transferred, or tried in any federal court. The sole court granted exclusive jurisdiction and venue for any action arising from this Agreement or any dispute relating to this Project and/or Work shall be the Judicial District Court for the Parish in which the Project is located.

§ 13.4 Tests and Inspections

§ 13.4.1 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 contact the Owner to make arrangements for such tests, inspections, and approvals with the Owner's designated independent testing laboratory provided by the Owner or with the appropriate public authority 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 tests, inspections, or approvals, except as provided in Section 13.5.4 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.

§ 13.4.2 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 13.4.1, 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 13.4.3, shall be at the Owner's expense.

§ 13.4.3 ~~If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 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.~~ All plumbing, including gas lines, must be submitted to a smoke test. Any failure of the initial smoke test shall require the Contractor to administer and pay for all subsequent re-tests until no leaks are identified. The Contract shall be required to use the Owner's designated testing laboratory.

§ 13.4.4 ~~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. If such 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 the requirements established by the Contract Documents, all costs necessitated by such failure(s), including costs for repeated procedures and compensation for the Architect's services and expenses, shall be borne by the Contractor.~~

§ 13.4.5 ~~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. Required certificates of testing, inspection, or approval shall, unless otherwise provided in the Contract Documents, be secured by the Contractor and promptly delivered to the Architect and Owner.~~

§ 13.4.6 ~~Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work. If the Architect or the Owner is required to observe tests, inspections, or approvals required by the Contract Documents, the Architect, the Architect's appropriate consultant, or the Owner will do so promptly and, where practicable, at the normal place of testing.~~

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

§ 13.4.8 Where the Contract Documents require that the Work be inspected, tested, and approved, and when the Contractor believes that the Work, or any part thereof, is substantially complete, the Contractor shall give timely notice of the same, including written notice when required. However, should any part of the Work requiring testing, inspection, or approval not be in readiness, the Contractor shall pay the salaries, professional fees, travel and living expenses, as applicable, for persons inconvenienced by an inaccurate notice.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear no interest charges of any nature. ~~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.~~

§ 13.6 Pre-Construction, Progress and Coordination Meetings

§ 13.6.1 A Pre-Construction Meeting shall be held prior to the issuance of the Notice to Proceed. The following persons shall be in attendance: Owner, Architect and its consultants, Contractor and its superintendent, major subcontractors, and representatives of separate contractors, when applicable. Prior to or at the Pre-Construction Meeting, the Contractor shall submit to the Architect and the Owner the following: (1) a list of major subcontractors and their phone numbers; (2) a list of the subcontractors' superintendents and project managers with twenty-four (24) hour phone numbers; (3) a CPM Construction Progress Schedule, in both written and electronic (native and pdf) formats, (4) a submittal schedule, and (5) the Schedule of Values.

§ 13.6.2 On-site progress and coordination meetings will be held monthly or more often as designated by the Owner or Architect or as changed in writing by the Owner or the Architect. The Contractor shall distribute minutes of each meeting to all participants within seven (7) days of each meeting. The following are expected to attend: The Contractor, represented by its Project Manager or principal, the Contractor's Project Superintendent, the subcontractors and material suppliers requested by the Architect or the Owner.

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, their agents or employees, or any other persons or entities performing portions of the Work, 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; or
- .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; ~~or~~
- ~~.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.~~

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, 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' 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 as to the portion of the Work that was installed, performed, or stored on the site. The Contractor shall not be entitled to recover consequential damages, profit or overhead for any portion of the Work of the Contract that had not been performed, or attorney's fees on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 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 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.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract or a portion of the Contract if it includes multiple sites, if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials for the Project or any portion or site of the Projects;
- .2 fails to make payment to Subcontractors or suppliers 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; ~~or~~
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents; ~~or~~

5 fails to complete the "Punch List" within the time as provided in Sections 9.8.2 and 9.8.4.

§ 14.2.2 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' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site, or from one or more sites if a multi-site Project, 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. Termination by the Owner shall not suspend the assessment of liquidated damages against the surety.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, 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 unpaid balance, the Contractor and the surety 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 ~~Architect~~Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.2.5 Liquidated damages have been established and termination by the Owner pursuant to this Article shall not relieve the Contractor and/or the surety of their obligations under the liquidated damages provisions; and the Contractor and/or surety shall be liable to the Owner for per diem liquidated damages.

§ 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 under Section 14.3.1. Adjustment of the Contract Sum shall 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 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 Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination. The Contractor shall not be entitled to recover consequential damages or attorney's fees, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES**§ 15.1 Claims****§ 15.1.1 Definition**

A Claim is a written demand or assertion by one of the parties seeking, as a matter of right, payment of money, extension of time, a change in the Contract 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.

Comments made at progress meetings, walk-throughs, inspections, in emails, voicemails, and other communications do not meet the requirement of notice of a claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

~~See La. R.S. 38:2189. 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.~~ Claims by either party under this Section 15.1.3.1 shall be initiated within ~~21~~15 days after occurrence of the event giving rise to such Claim or within ~~21~~15 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. The Architect may provide a written decision to the Contractor and the Owner within twenty-one (21) days of receipt of the Claim. The Architect may (1) approve the Claim, (2) reject the Claim in whole or in part, or (3) suggest a compromise. The Architect's decision is binding on the parties, but subject to mediation and/or litigation. A reservation of rights and similar stipulations shall not be recognized as having any effect under this Agreement. A party must make a claim as defined herein within the time limits established by this Agreement. A written decision of the Architect is required as a condition precedent to mediation or litigation, unless twenty-one days have passed after a claim has been referred to the Architect with no decision having been rendered

§ 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.

§ 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 Initial Decision Maker'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~~his ~~decision of the Initial Decision Maker.~~

§ 15.1.5 Claims for Additional Cost

§ 15.1.5.1 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.

§ 15.1.5.2 If the Contractor believes additional cost is involved from reasons including, but not limited to, (1) an order by the Owner to stop the Work where the Contractor was not responsible or at fault, (2) failure of payment by the Owner, (3) termination of the Contract by the Owner, (4) the Owner's suspension of the Work, or (5) other reasonable grounds, the Contractor shall file a claim in accordance with this Section 15.1. Failure to file any such claim in accordance with Section 15.1 shall constitute a waiver of the claim.

§ 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. Adverse weather conditions on a scheduled work day shall only result in claims for additional time and an adjustment in the Contract Time only. No monetary damages for weather-related delays shall be allowed. A claim for an increase in the Contract Time will only be considered for critical path activities, as identified on the approved baseline schedule.

§ 15.1.6.2 If adverse weather conditions at the Project site, including unsuitable ground 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 prevented the execution of critical path activities on-site on normal, scheduled working days. If the unsuitable ground conditions are the result of the Contractor's failure to properly grade and/or maintain the grounds, no additional time shall be granted. ~~had an adverse effect on the scheduled construction.~~

§ 15.1.6.3 The Contractor shall anticipate and include in its construction schedule adverse weather days in accordance with the table below. An adverse weather day is defined as a day when rainfall at the Project site exceeds one-half an inch during a 24-hour period, and prevents the Contractor from proceeding with the execution of major, critical path items of Work. The Contract Time already considers the following reasonably anticipated days of adverse weather on a monthly basis, which are presented for informational purposes only:

January:	11 days
February:	10 days
March:	8 days
April:	7 days
May:	5 days
June:	6 days
July:	6 days
August:	5 days
September:	4 days
October:	3 days
November:	5 days
December:	8 days

The Contractor's request will be considered only for scheduled work days over the allowable number of days as stated above. The Contract is on a calendar basis. In no case shall an increase in the Contract Time due to adverse weather constitute grounds for an increase in the Contract Sum.

§ 15.1.6.4 The Contractor shall report to the Architect and Owner total adverse weather work days incurred each month, with substantiating backup.

§ 15.1.6.5 The time stipulated for Substantial Completion of the Work includes the anticipated delays due to normal adverse weather conditions for the months encompassed in the Project duration, which are stated in Section 15.1.5.3 above. The Contractor shall not be allowed to make a Claim for additional time due to weather delays until and unless such weather delays exceed the TOTAL reasonable anticipated adverse weather delays for each particular month, as stated in Section 15.1.5.3 above. The Contractor's request will be considered only for the days over the reasonably anticipated days of adverse weather stated above. In order to make a claim for additional time as a result of adverse weather, the Contractor shall:

- (1) Document, in writing, that the cumulative total of actual adverse weather delays exceeds the TOTAL reasonably anticipated adverse weather delays for the previous month, as stated in Section 15.1.5.3; and
- (2) Document, in writing, that the weather on each particular day of claimed adverse weather was of such nature (rain, wind, snow, ice, and subsequent resultant effects) at the Project site that it significantly impacted the Contractor's ability to make progress on critical path work items. Adverse weather delay days will not be granted for weekends or holidays unless the Contractor can demonstrate (using its approved baseline schedule) that it had intended to work on those days.

§ 15.1.6.6 If the anticipated adverse weather days were exceeded, the claim must be submitted within 15 days of the end of the month. Failure to timely submit a claim for adverse weather shall result in a waiver of said claim.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor ~~and Owner~~ waives Claims against ~~the Owner 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 or employee productivity or of the services of such persons; and
- ~~12~~ damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, attorney's fees 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

~~DELETED. § 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.

~~§ 15.2.3~~ In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may 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.

~~§ 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 on 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. This 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, to binding dispute resolution.

~~§ 15.2.6~~ Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

~~§ 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.

~~§ 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.

~~§ 15.2.8~~ 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 Mediation

~~§ 15.3.1~~ 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, ~~and 9.10.5, and 15.1.7~~, shall be subject to mediation as a condition precedent to filing of a lawsuit. ~~binding dispute resolution.~~

~~§ 15.3.2~~ 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 mediation service with offices located in the Greater New Orleans area. 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~~ a lawsuit but, in such event, mediation shall proceed in advance of ~~any lawsuit~~ binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed 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.~~

~~§ 15.3.2.1~~ 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 the possibility of the Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

~~§ 15.3.2.2~~ 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.

~~§ 15.3.3~~ Either party may, within 30 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.

~~§ 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.

~~§ 15.3.5~~ Either party, at its sole discretion, may consolidate a mediation conducted under this Agreement with any other mediation to which it is a party provided that (1) the mediation agreement governing the mediation permits consolidation, (2) the mediations to be consolidated substantially involve common questions of law or fact, and (3) the mediations employ materially similar procedural rules and methods for selecting a mediator.

~~§ 15.3.6~~ The Owner and Contractor grant to any person or entity made a party to a mediation conducted under this Section 15.3, whether by joinder or consolidation, the same rights of joinder or consolidation as the Owner and the Contractor under this Agreement.

§ 15.4 Arbitration

~~DELETED. § 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.

§ 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.

§ 15.4.2 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.

§ 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.

§ 15.4.4 Consolidation or Joinder

§ 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 arbitrator(s).

§ 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.

§ 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.

ARTICLE 16 Equal Opportunity

§ 16.1 The Contractor and all subcontractors shall not discriminate against any employee or applicant for employment because of race, color, sex, or national origin. The Contractor shall take affirmative actions to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth policies of non-discrimination.

§ 16.2 The Contractor and all subcontractors shall in all solicitations or advertisements for employment state that qualified applicants will receive consideration for employment without regard to race, religion, sex or national origin.

ARTICLE 17 Verification of Employees Involved in Public Contract Work

§ 17.1 The Contractor shall comply with the provisions of La. R.S. 38:2212.10 and continue during the term of this Agreement to utilize a status verification system to verify the legal status of all new employees. The Contractor shall also require all subcontractors to comply with the provisions of La. R.S. 38:2212.10.

Audubon Schools Gentilly Renovatiaon – Phase 2B

Phase 2B of the Audubon Gentilly renovation includes renovations to the 2nd floor, addition of the elevator, addition of 2nd floor girls bathroom and renovation of boys bathroom to be ADA compliant.

As this is a public bid project, an ad was placed in the New Orleans Advocate on (See attached copy of ad verbiage). See the timeline below for important dates:

December 9 th	Ad run in Times Picayune (3 week duration)
December 30 th	Mandatory Pre-Bid Meeting
January 2 nd	2 nd walk-through for contractors and subs
January 10 th	Bids due at 2:00 p.m.

Final bids and contractor recommendation is presented to the Finance Committee on January 14, 2020 and to the board on January 18, 2020, along with a copy of the contract, which has been reviewed by Lee Reid of Adams and Reese.

Anticipated construction start is February 2020.

The following attachments are included in this packet:

1. Copy of ad and quote
2. Proof of publication
3. Pre-bid meeting sign-in sheet
4. Bid tally sheet
5. DRAFT copy of contract A-101 2017 version

Sealed proposals for **Renovations to Audubon Schools at Gentilly Terrace, Phase 2B, 4720 Painters Street, New Orleans LA**, will be received at the offices of Mathes Brierre Architects, 201 St. Charles Avenue, Forty-First Floor, New Orleans LA, no later than **2:00 p.m. on January 10, 2020**. A mandatory pre-bid meeting will be held at **10:00 a.m. on December 30, 2019** at the project site, 4720 Painters Street, First Floor Cafeteria/ enter from Painters Street Gate, New Orleans LA. Attendance at this Pre-Bid Conference is MANDATORY and bidders must be present for the entire conference in order to submit a bid. Drawings and Project Manual are available for download at the architects FTP site at no deposit. Contact Tommy Grey at Tgrey@mathesbrierre.com for instructions to access the FTP site documents. Bidders must submit their contractors Louisiana license number and also e-mail address for receiving addenda upon request for documents. Also available are hard copies of Drawings and Project Manuals for a deposit of \$105 for each complete set. Deposits on the first set of documents furnished prime bidders shall be fully refunded upon return of the documents no later than ten days after receipt of bids. On other sets of documents furnished to bidders, the deposit less the actual cost of reproduction, shall be refunded upon return of the documents no later than ten days after receipt of bids. The said refunds will only be made for complete sets of Documents returned in good condition. Checks shall be made payable to Mathes Brierre Architects. This project is subject to all provisions and procedures of the Louisiana RS Title 38, Section 2181 etseq. applicable to the Louisiana public bid law. The Owner requires a bid bond submitted with bid equivalent to 5% of the total bid

THE ADVOCATE

BATON ROUGE • NEW ORLEANS • ACADIANA

Order Confirmation

Ad Order Number

0000402918

Customer

AUDUBON CHARTER SCHOOL

Payor Customer

AUDUBON CHARTER SCHOOL

PO Number

RENOVATIONS

Sales Rep.

msingleton

Customer Account

10180

Payor Account

10180

Order Taker

msingleton

Customer AddressALISA DAVILLIER DUPRE
NEW ORLEANS LA 70118 USA**Payor Address**ALISA DAVILLIER DUPRE
NEW ORLEANS LA 70118 USA**Customer Fax****Order Source****Customer Phone**

5043247115

Payor Phone

5043247115

Customer EMail

alisa_dupre@auduboncharter.com

Affidavits

1

Blind Box**Materials****Invoice Text****Net Amount**

\$99.76

Tax Amount

\$0.00

Total Amount

\$99.76

Payment Method

Invoice

Payment Amount

\$0.00

Amount Due

\$99.76



<u>Ad Number</u>	<u>Ad Type</u>	<u>Ad Released</u>
0000402918-01	Legal	No
<u>Ad Size</u>	<u>Color</u>	
1 X 89 li		
<u>Ad Proof</u>		

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PUBLIC NOTICE

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402918-dec 9-16-23-3t

<u>Run Date</u>	<u>Product</u>	<u>Placement</u>	<u>Position</u>
12/09/2019	New Orlns Adv	NO Public Notices	Bids-Proposals NO
12/16/2019	New Orlns Adv	NO Public Notices	Bids-Proposals NO
12/23/2019	New Orlns Adv	NO Public Notices	Bids-Proposals NO

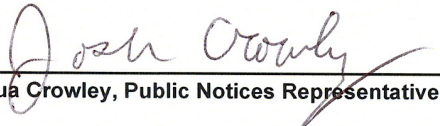
CAPITAL CITY PRESS

Publisher of
THE ADVOCATE

PROOF OF PUBLICATION

The hereto attached notice was published in
THE ADVOCATE, a daily newspaper of
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THE NEW ORLEANS ADVOCATE, in
New Orleans Louisiana, or published daily in
THE ACADIANA ADVOCATE in

12/09/2019, 12/16/2019, 12/23/2019


Joshua Crowley, Public Notices Representative

Sworn and subscribed before me by the person
whose signature appears above

12/24/2019



M. Monic McChristian,
Notary Public ID# 88293
State of Louisiana
My Commission Expires: Indefinite



PUBLIC NOTICE

Sealed proposals for Ren-
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Schools at Gentilly Ter-
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Charles Avenue, Forty-First
Floor, New Orleans LA, no
later than 2:00 p.m. on
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be held at 10:00 a.m. on
December 30, 2019 at the
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Street, First Floor
Cafeteria/ enter from
Painters Street Gate, New
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Bidders must submit their
contractors Louisiana li-
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mail address for receiving
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upon return of the docu-
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days after receipt of bids.
On other sets of docu-
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upon return of the docu-
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public bid law. The Owner
requires a bid bond sub-
mitted with bid equivalent
to 5% of the total bid.

402918-dec 9-16-23-3t

AUDUBON CHARTER SCHOOL	402918-01
ALISA DAVILLIER DUPRE	
428 BROADWAY ST	
NEW ORLEANS, LA 70118	

Mathes Brierre

ARCHITECTS

Pre-Bid Meeting Sign-in Log

Project: **Renovations to
AUDUBON SCHOOLS
at Gentilly Terrace
PHASE 2P
4720 Painters Street
New Orleans LA 70122MBA
Project No. 11749.4**

Date/Time: 10:00 A.M., December 30, 2019

NAME	COMPANY / DISCIPLINE	TELEPHONE & FAX NOS.	E-MAIL ADDRESS
Alisa Davillier Dupré	Audubon Schools	504.324.7115	alisa_dupre@auduboncharter.com
Angela Morton	Mathes Brierre Architects	586-9303 582-1305	amorton@mathesbrierre.com
Kevin Smith	Smith Constr.	985 882-2426 882-2406	mike@smithcc.net
Cecil Passman	RPM Raumer-Passman-Mechanical	504 628 3628	cecil@rpmmech.com
Tom Fahl	NFT Group, LLC	504.330.2189	info@nftgr.com
Steele McDaniel	Steele-R Development LLC	985 234-0621 985-234-0611	Steele@S-rd.com
Sam Wester	CM COMBS CONSTRUCTION	985-867-4960 985-264-7125	S.Wester@cmcombsconstruction.com cccombsconstruction.com

Mathes Brierre

ARCHITECTS

Pre-Bid Meeting Sign-in Log

Project: **Renovations to
AUDUBON SCHOOLS
at Gentilly Terrace
PHASE 2B
4720 Painters Street
New Orleans LA 70122MBA
Project No. 11749.4**

Date/Time: 10:00 A.M., December 30, 2019

NAME	COMPANY / DISCIPLINE	TELEPHONE & FAX NOS.	E-MAIL ADDRESS
Bill Steinhilber	Trimark Constructors, LLC	(504) 836-2811 (O) 841-2349 (F)	bid@trimark.build
ERIC SHEU	TUNA	504-305 2749	bids@tunaconstruction.com
Nick LATINO	Dr. Tull Spacing	467-7073	
Sim Ledet	GVA Engineering	780-9330	SLEDET @ GVAENGINEERING.COM
Lee Patterson	ARC Abatement	985-634-6379	leepatterson@arcabatement.com
Roy Eschette	Zimmerman Eschette	504-827-1902	Roy@zeservicesllc.com
Tracy Ledet Tommy Brown	Gibbs Construction	504-733-4336	bid@gibbsconstruction.com
Jack Woodruff	Louisiana Land Art	504-234-0060	main: bid@louisianalandart.com Jack@louisianalandart.com

**Project: Renovations to
AUDUBON SCHOOLS
at Gentilly Terrace
PHASE 2B
4720 Painters Street
New Orleans LA 70122MBA
Project No. 11749.4**

BID TABULATION FORM

Date: January 10, 2020

Time: 2:00 P.M.

**Renovations to Audubon Schools
at Gentilly Terrace
Phase 2B
4720 Painters Street
New Orleans LA 70122
Project No. 11749.4**

BIDDERS	LIC NO.	BID AMOUNT	ALT.NO.1 (Rooms 115, 116A, 121, 121A & new millwork in Corr C-01-10)	ALT.NO.2 (Library suite, and the Art Classroom suite)	ALT.NO.3 (decorative suspended linear direct/indirect lights)	UN PR 1 (plywood subfloor per sheet)	CORP RES	BID BOND	ADD. REC'D	REMARKS
Colmex Construction LLC	52033	2,576,000	150,000	315,000	150,000	\$195	✓	✓	1-3	
CM Combs Construction, LLC	55237	3,092,000	171,000	723,000	68,000	\$500	✓	✓	1-3	
Construction Masters	29242	3,146,000	110,000	585,000	75,000	\$750	✓	✓	1-3	
Dixon Contracting Group	61971	2,800,000	105,000	362,000	74,000	\$100	✓	✓	1-3	
Gibbs Construction	10729	3,185,000	130,000	570,000	65,000	\$120	✓	✓	1-3	
Industrial & Mechanical Con.	26581	3,094,000	123,100	444,000	56,200	\$500	✓	✓	1-3	
NFT Group, LLC	61351	2,524,498	154,929	399,348	66,295	\$90	✓	✓	1-3	
Smith Construction Co.	33374									
Stallings Construction Co.	21833	3,177,000	109,000	510,000	220,000	\$125	✓	✓	1-3	
Trimark Constructors LLC	25406									
Tuna Construction	46529									

Persons in Attendance**Addendum No. 1-3 issued.**Signed:  Mathes Brierre ArchitectsDate: January 10, 2020Signed: _____ Date: _____
Audubon SchoolsDesigner's Estimate (Base Bid) \$2,600,000 Construction Time 185 in days Liquidated Damages \$800/\$1,000 per day

Coversheet

Development Report

Section:	IV. CEO's Report
Item:	C. Development Report
Purpose:	FYI
Submitted by:	
Related Material:	January 2020 Operations Board Report.pdf

Development Report for F.A.M.E. Board Meeting January 18, 2019

19-20 Annual Fund:

Goal: \$50,000

Actual: \$26,042 gifts (\$25,899 as of December 31), \$2,649 pledged recurring gifts

- Uptown: \$15,064 gifts
- Gentilly: \$1,308 gifts
- Schools: \$6,729 gifts
- FAME Board: \$2,941 gifts

Kicking Off the New Year with Kindness: January 14-February 14, 2020

Goal: \$15,000

Actual: \$1,050

Uptown: \$660

Gentilly: \$390

Current Match Sponsorships Confirmed: \$3,500

Grants FY 19-20:

Received to Date: \$23,000 (New)

\$386,393 (Released from restriction)

Submitted/Pending: \$129,540

Funder	Amount Requested	To Benefit	Probability
McKee Family Foundation	\$9,540	Montessori materials for Uptown	Medium
G.W. McIlhenny Foundation	\$10,000	SEL programming at Gentilly	Low
RosaMary Family Foundation	\$50,000	Renovations at Audubon Gentilly	Medium
The Selley Foundation	\$60,000	Renovations at Audubon Gentilly	Medium

Awarded/Denied

Funder	Amount Requested	To Benefit	Awarded/Denied	Award Amount
Jazz and Heritage Foundation	\$5,000	Artist in Residency program at Audubon Gentilly	Awarded	\$3,000
Gustaf W. McIlhenney	\$10,000	Social-emotional learning program at Audubon Gentilly	Awarded	\$5,000
Pro Bono Publico Foundation	\$15,000	PD for differentiated instruction and expanding intervention resources	Awarded	\$15,000
Institute of Mental Health	\$29,900	Social-emotional learning program and partnership with Daughters of Charity at Audubon Gentilly	Denied	

Chan Zuckerberg Initiative	\$471,000	SEL and DEI programming and PD at Milan campus	Denied	
Entergy Charitable Foundation	\$5,000	STEM programming at Audubon Gentilly	Denied	
EPNO	\$5,635	SEL programming	Denied	
Lockheed Martin	\$10,000	STEM programming at Audubon Gentilly	Denied	
The Selley Foundation	\$60,000	Renovations at Audubon Gentilly	Denied	
GPOA Foundation	\$15,000	Expanding intervention resources	Denied	

GiveNOLA Day 2020: May 5, 2020 – Goal \$10,000

Rarebird Night at City Park 2020: May 15, 2020

Event Goal: \$20,500

Gross: \$400

Net: \$400

Sponsorship Total: \$400

Fais Do-Do 2020: May 9, 2020

Event Goal: \$15,000

Gross: \$600

Net: \$600

Sponsorship Total: \$600