

CONTRACT

This contract entered into this ____ day of _____ 2021 effective from
September 27, 2021 (tentative) to December 30, 2021 by and between the City of
Scranton, 340 North Washington Avenue, Scranton, PA 18503, hereinafter called "Scranton"
and

C & D WATERPROOFING CORP.
300 PAPERMILL ROAD
BLOOMSBURG, PA 17815
PHONE NO. 570-389-8446

hereinafter called "Contractor".

WITNESSETH:

WHEREAS, Scranton desires the Contractor to perform certain work and services in
accordance with the terms and conditions hereinafter set forth and the Contractor is ready,
willing and able to perform such work and services.

NOW THEREFORE, in consideration of the promises contained herein and the promises
each to the other made, the parties do agree and intend to be legally bound as follows:

ARTICLE I - CATEGORY OF WORK AND SERVICES

The work and services to be performed by Contractor shall be in the general fields of
providing City of Scranton City Hall South Tower roofing and masonry restoration. The
Contractor hereby covenants, contracts and agrees to furnish Scranton with:

CITY OF SCRANTON CITY HALL SOUTH TOWER ROOFING AND
MASONRY RESTORATION PER THE ATTACHED BID PROPOSAL
AND SPECIFICATIONS

Said services to be furnished and delivered in strict and entire conformity with Scranton's
Specifications marked as Exhibit "A" attached hereto and incorporated herein by reference
thereto and the Bid Proposal submitted by C & D Waterproofing Corp dated June 23, 2021
attached hereto marked as Exhibit "B" and incorporated herein by reference thereto. Said Bid
Proposal and Specifications are hereby made part of this Agreement as fully and with the same
effect as if set forth at length herein.

ARTICLE II - GENERAL

(1) In the performance of the work and services hereunder, the Contractor shall act solely
as an independent contractor, and nothing contained or implied shall at any time be so construed
as to create the relationship of employer and employee, partnership, principal/agent, or joint
adventurer as between Scranton and the Contractor.

(2) Failure of either party to enforce any of its rights hereunder shall not constitute a
waiver of such rights, or of any other rights hereunder.

ARTICLE III - FEES

Said services to be furnished and delivered in strict and entire conformity with the Bid Proposal and Specifications attached hereto. Said Bid Proposal and Specifications are incorporated herein by reference as though set forth at length.

Scranton agrees to pay the Contractor for furnishing the above services if said services are provided in full compliance with the terms and conditions of this Contract to the satisfaction and approval of the Business Administrator. Such approval shall not be unreasonably withheld. The terms and conditions of this contract are set forth herein and may be supplemented by any attachments or exhibits incorporated herein by reference.

ARTICLE IV - INDEMNIFICATION

The Contractor shall indemnify, defend, and hold harmless Scranton from and against any and all claims and actions, based upon or arising out of damage to property or injuries to person or other acts caused or contributed to by Contractor or anyone acting under the Contractor's direction or control or on the Contractor's behalf in the course of the Contractor's performance under this contract.

ARTICLE V - INSURANCE

- (1) Contractor represents that it now carries, and agrees it will continue during the term of this Contract to carry, at a minimum: Workers' Compensation, Comprehensive General and Contractual Liability and Professional Liability Insurance in the following amounts:

<u>TYPE OF INSURANCE</u>	<u>LIMITS OF LIABILITY</u>
Workers' Compensation	Statutory
Employer's Liability	\$ 500,000.00
Professional Liability	\$1,000,000.00 each occurrence \$1,000,000.00 aggregate
Comprehensive General Liability (including Blanket Contractual Liability Insurance)	
Bodily Injury	\$ 1,000,000 each person \$ 1,000,000 each occurrence \$ 1,000,000 aggregate
Property Damage	\$ 500,000 each occurrence
Personal Injury	\$ 500,000
Comprehensive Automobile Liability:	
Bodily Injury	\$ 300,000 each person \$ 500,000 each occurrence
Property Damage	\$ 500,000 each occurrence

- (2) Certificates of all insurance provided by the Contractor shall be available for Scranton's review and will be furnished to Scranton if requested. Such copies of certificates shall include the following:

- (a) Name of insurance company, policy number and expiration date;
- (b) The coverage required and the limits on each, including the amount of deductibles or self-insured retentions (which shall be for the account of the

- Contractor);
- (c) A statement indicating Scranton shall receive thirty (30) days notice of cancellation or significant modification of any of the policies which may affect Scranton interest;
 - (d) A statement confirming Scranton has been named an additional insured (except for Worker's Compensation) on all policies; and
 - (e) A statement confirming that Scranton, its agents and employees have been provided a waiver of any rights or subrogation, which the Contractor may have against them.

ARTICLE VI: TERMINATION OF CONTRACT

If through any cause the CONTRACTOR shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or in the event of violation of any of the covenants contained herein, or in the event of violation of the laws applicable to implementation of the project contemplated by this Agreement, or in the event of misuse of funds, mismanagement, criminal activity or malfeasance in the implementation of this Agreement Scranton shall thereupon have the right to terminate this Agreement by giving written notice to the CONTRACTOR specifying the effective date of termination. Said notice shall be given in writing to the CONTRACTOR and will be effective upon receipt by the CONTRACTOR. In such an event all project records, unused grant monies, and such amounts as may have been expended contrary to the terms of this Agreement shall be returned to the Scranton.

ARTICLE VII: DEFAULT

In the event of a default by Contractor under this Agreement, the defaulting party then shall reimburse the non defaulting party for all costs and expenses incurred by the non defaulting party in connection with the default, including without limitation, court costs and attorneys fees at the trial level and on appeal.

ARTICLE VIII: JURISDICTION

This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania and all obligations hereunder are to be performed in Lackawanna County, Pennsylvania. Jurisdiction over the subject matter and performance of this Agreement is therefore vested in the Lackawanna County Court of Common Pleas.

ARTICLE IX - ENTIRE AGREEMENT

This contract constitutes the entire agreement between Scranton and Contractor. It supersedes all prior contemporaneous communications, representations or agreements whether oral or written with respect to the subject matter thereof and if it has been induced by no representations, statements or agreements other than those expressed. No agreement hereafter made between the parties shall be binding on either party unless reduced to writing and signed by an unauthorized officer of the party sought to be bound thereby.

IT IS FURTHER UNDERSTOOD AND AGREED that this contract is entered into under and subject to the provisions of the Act of Assembly of the Commonwealth of Pennsylvania, approved March 7, 1901, its supplements and amendments, and the liability of the City of Scranton herein limited to the amount appropriated for the same and subject to the Section 6-13 of the Administrative Code of the City of Scranton which limits payments of money out of the City Treasury to appropriations made by the Council

IN WITNESS WHEREOF the parties hereto have, in due form of law, caused this agreement to be executed the day and year first above written.

ATTEST:

[Signature]
CITY CLERK

BY: [Signature]
MAYOR

DATE: 9/23/21

DATE: 9/23/2021

COUNTERSIGNED:

[Signature]
CITY CONTROLLER

[Signature]
BUSINESS ADMINISTRATOR

DATE: 9/23/21

DATE: 9/23/21

APPROVED AS TO FORM:

[Signature]
CITY SOLICITOR

DATE: 9/23/2021

C & D WATERPROOFING CORP.

[Signature]
BY:

TITLE: President

DATE: 9-27-21



DEPARTMENT OF BUSINESS ADMINISTRATION

CITY HALL • 340 NORTH WASHINGTON AVENUE • SCRANTON, PENNSYLVANIA 18503 • PHONE: 570-348-4118 • FAX: 570-348-4225

September 20, 2021

Joe O'Brien
City Solicitor
City of Scranton
340 N. Washington Ave
Scranton, PA 18503

RE: South Tower Restoration Project

Atty O'Brien,

Upon review of the bids submitted, we have determined that

C&D Waterproofing Corp
300 Papermill Rd.
Bloomsburg, PA 17815

is the lowest responsible bidder for the contract.
Please prepare contracts based on the attached proposals.

Sincerely,

Lawrence D. West
Business Administrator
City of Scranton

CC. Mayor Paige G. Cagnetti
Frank Voldenberg, City Clerk
John Murray, City Controller
Eileen Cipriani, Director OECD
Tom Oleski, Director, Licensing, Inspections and Permits
Purchase Clerk Julie Reed



DEPARTMENT OF LICENSING, INSPECTIONS AND PERMITS

CITY HALL • 340 NORTH WASHINGTON AVENUE • SCRANTON, PENNSYLVANIA 18501 • PHONE: 570-348-1193 • FAX: 570-348-4171

August 19, 2021

C & D Waterproofing Corp
300 Papermill Road
Bloomsburg, PA 17815

Attention: Jeffrey Marshman

RECEIVED

AUG 27 2021

LAW DEPT.

**Re: City Hall South Tower Restoration
(Bid Results)**

To Whom It May Concern,

After review of the sealed quotes received on June 23, 2021, regarding the above project, your company is to be awarded the bid as you were the lowest most responsible bidder. As such, please make arrangements to obtain the necessary paperwork from the LIPS Department in order to proceed with said work.

If you should have any questions, please contact me.

Sincerely,

Thomas Oleski
Director/BCO 4968
Licensing, Inspections and Permits

CC:

Eileen Cipriani, OCD Executive Director
Joseph O'Brien, City Solicitor
Jessica Eskra, Esq., Asst. City Solicitor
John Murray, City Controller
Larry West, Business Administrator

Department of Business Administration

City Hall
340 North Washington Avenue
Scranton, Pennsylvania 18503
Tel: (570) 348-4118
Fax: (570) 348-4225



SCRANTON

June 23, 2021

Mr. Thomas Preambo
DPW Director
101 West Poplar St.
Scranton, Pa. 18508

Dear Mr. Preambo,

This is to inform you that proposals were opened Wednesday, June 23, 2021 in Council Chambers for the **City Of Scranton City Hall South Tower Renovation**. Attached are the copies of the bids submitted by the following companies:

C&D Waterproofing
Multiscape
Mar-Paul
D&M Construction
Dunmore Roofing
Scartelli

After your review of the bids, please inform the Law Office of your decision so they may call for a contract or reject said bids.

Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink that reads "Julie Reed".

Julie Reed,
Purchasing Clerk

Encls.

CC: Mr. John Murray, City Controller
Mr. Frank Voldenberg, City Clerk
Mr. Joseph O'Brien Esq., City Solicitor
✓ File

Department of Business Administration

City Hall
340 North Washington Avenue
Scranton, Pennsylvania 18503
Tel: (570) 348-4118
Fax: (570) 348-4225



SCRANTON

May 27, 2021

Mr. Thomas Oleski
Director Licensing, Inspections & Permits
Municipal Building
Scranton Pa, 18503

Dear Mr. Oleski,

This is to inform you that bids will be opened in Council Chambers on Wednesday, June 23, 2021 at 10:00 A.M. for the following:

City of Scranton

City Hall South Tower Restoration

There will be a Mandatory Pre-Bid Conference on Thursday, June 10, 2021 at 10:00 A.M. in City Hall Chambers located at 340 North Washington Avenue for the purpose of reviewing all of the project requirements.

Attached, please find an Invitation to Bidders, Specifications, and Bidders Proposal.

Thank you for your cooperation in this matter.

Sincerely,

Julie Reed,
Purchasing Clerk

CC: Mayor Paige Cagnetti
Mr. John Murray, City Controller
Mr. Carl Deeley, Business Administrator
Mrs. Rebecca McMullen, Financial Manager
Mr. Frank Voldenberg, City Clerk
Mr. Joseph O'Brien Esq., City Solicitor
File



CITY OF SCRANTON

City Hall South Tower Restoration

May 2021

HA PN: 2020-417

HIGHLAND
ASSOCIATES

102 Highland Avenue
Clarks Summit, PA 18411
Phone: 570-586-4334

Exhibit "A"

**CITY OF SCRANTON
CITY HALL SOUTH TOWER RESTORATION**

May 2021

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CITY OF SCRANTON

INVITATION TO BIDDERS

SEALED PROPOSALS WILL BE RECEIVED BY THE CITY CONTROLLER AT THE OFFICE IN CITY HALL, 2ND FLOOR, 340 NORTH WASHINGTON AVENUE, SCRANTON, PENNSYLVANIA, 18503, UNTIL 10:00 A.M., June 23, 2021 AT WHICH TIME THEY WILL BE READ ALOUD IN COUNCIL CHAMBERS BY THE BUSINESS ADMINISTRATOR (OR HIS DESIGNEE) FOR THE FOLLOWING:

CITY OF SCRANTON
CITY HALL SOUTH TOWER RESTORATION

PROJECT FOR LICENSED GENERAL CONTRATOR
(ROOFING AND MASONRY RESTORATION)

COPIES OF THE BIDDING AND CONTRACT DOCUMENTS INCLUDING DRAWINGS AND SPECIFICATIONS MAY BE OBTAINED ELECTRONICALLY (PDF FORMAT) FROM HIGHLAND ASSOCIATES, 102 HIGHLAND AVENUE, CLARKS SUMMIT, PA. 18411. CONTACT IS DREW MARCINKEVICH (DMARCINKEVICH@HA-PA.COM). NO HARD COPIES WILL BE SUPPLIED.

A MANDATORY PRE-BID CONFERENCE WILL BE HELD ON JUNE 10th AT 10:00 A.M. LOCATION WILL BE OUTSIDE AT DIX COURT. BIDS FROM BIDDERS THAT FAILED TO ATTEND THE PRE-BID CONFERENCE AND WALK THROUGH SHALL BE REJECTED. ALL CURRENT COVID REQUIREMENTS WILL BE MAINTAINED.

EACH BIDDER SHALL ENCLOSE BID SECURITY WITH THEIR BIDS IN THE FORM OF AN ACCEPTABLE BID BOND, CASHIER'S CHECK, TRUST COMPANY TREASURER'S CHECK, OR A CERTIFIED CHECK IN AN AMOUNT EQUAL TO 10% OF THE TOTAL BID IN ACCORDANCE WITH THE INSTRUCTIONS TO BIDDERS. PERFORMANCE AND PAYMENT BONDS FOR 100% OF THE CONTRACT SUM WILL BE REQUIRED OF THE SUCCESSFUL BIDDER.

THE CONTRACT SHALL BE AWARDED TO THE LOWEST, MOST RESPONSIBLE BIDDER; HOWEVER, THE CITY RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS OR ANY PART OF ANY BID. BIDDERS ARE INVITED TO HAVE A REPRESENTATIVE PRESENT AT THE BID OPENING.

ENVELOPES CONTAINING BIDS SHALL BE PLAINLY MARKED OUTSIDE "CITY HALL SOUTH TOWER RESTORATION" AND DELIVERED OR MAILED TO THE OFFICE OF THE CITY CONTROLLER, CITY HALL, 2ND FLOOR, 340 NORTH WASHINGTON AVENUE, SCRANTON, PENNSYLVANIA, 18503, SO AS TO BE RECEIVED AT THE OFFICE BY THE TIME FIRST SPECIFIED ABOVE. PROPOSERS ARE RESPONSIBLE FOR SUBMITTING THEIR BIDS TO THE APPROPRIATE LOCATIONS AT OR PRIOR TO THE TIME INDICATED IN THE SPECIFICATIONS. DELAY IN THE MAIL DELIVERY IS NOT AN EXCEPTION TO THE RECEIPT OF BIDS. THE CITY OF SCRANTON REQUIRES SIX (6) COPIES OF ALL BIDDING DOCUMENTS.

QUESTIONS CAN BE EMAILED TO THOMAS OLESKI: TOLESKI@SCRANTONPA.GOV

SECTION 002114 – INSTRUCTIONS TO BIDDERS

PART 1 GENERAL

1.01 INVITATIONS FOR BIDS

A. Sealed Proposals for the City of Scranton City Hall South Tower Restoration Project, Lackawanna County, Scranton, Pennsylvania, must be submitted to the Owner in accordance with the Invitation to Bid.

1.02 OPENING OF BIDS

A. Bids will then be opened and publicly read aloud immediately following bid submission.

1.03 OWNER'S REPRESENTATIVES

A. The Architect for the Project is Highland Associates, Ltd. Architecture Engineering Interior Design, 102 Highland Avenue, Clarks Summit, Pennsylvania 18411, (570) 586-4334. The Architect provides for the design of the Project, as set forth in the Contract Documents generally and the Drawings and Specifications in particular.

B. The Owner's designated representative is Mr. Thomas Oleski. The representative is authorized to make decisions on behalf of the City provided the financial effect on the Project budget does not exceed \$10,000.00 and provided that the cumulative effect of all such decisions does not exceed the budget for contingencies.

1.04 DOCUMENTS

A. Bona fide Prime Bidders may obtain a complete set of Bidding and Construction Documents and Drawings and Specifications from the Architect in accordance with the provisions of the Invitation to Bid.

1.05 EXAMINATION

A. The Bidder shall carefully study and compare the Contract Documents with each other and with other work being bid concurrently or presently under construction to the extent that it may affect the Work on the Project.

B. The Bidder shall examine the sites where the Work will be performed and local conditions in order to obtain first-hand knowledge of existing conditions and limitations, and shall at once report to the Architect errors, inconsistencies or ambiguities discovered. Failure to visit the site will not relieve the Contractor of responsibility for same nor will extra payment requests be considered for conditions which could have been determined by examination of the work sites and Construction Documents.

C. The Bidder shall determine the extent to which an award by the Owner for other Work, including Work performed by other Prime Contractors, may bear upon the Work performed by the Contractor.

D. The Bidder shall consider the effect on his Work of Owner's on-going operations and shall adjust his Bid based upon the likelihood that these operations will restrict the duration and sequencing of work

activities. In this regard, Bidder acknowledges the provisions of Section 010150 of Division 1 of the Specifications and that the process set forth there is reasonable and has been accounted for in his Bid.

1.06 BIDDER'S QUALIFICATIONS

A. Bidder shall submit with the Bid a completed Qualifications Statement, the form of which is included in Division 00. A submitted Qualifications Statement completed in a manner that demonstrates bad faith shall be rejected and the Bid declared non-responsive as per Subparagraph 1.15.E. Along with the Statement, the Bidder shall provide a complete copy of its most recent financial statement. A negative response to the request for a complete copy of the most recent financial statement shall be conclusively treated as non-responsive and shall disqualify the Bidder.

B. The Owner may make such investigation as is deemed necessary to determine the responsibility of the Bidder, including the ability of the Bidder to perform the Work according to the requirements of the Contract Documents. The Bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any Bid if, by the evidence submitted or as the result of investigation, the Owner concludes in its discretion that the Bidder is not properly qualified to carry out the obligations of the Contract or is otherwise not a responsible contractor under applicable law.

1.07 BID SECURITY

A. Each Bid must be accompanied by a single original Bid Bond, Cashier's Check, Trust Company Treasurer's Check or Certified Check in favor of or made payable to the City of Scranton in an amount of not less than ten percent (10.0%) of the Base Bid. Any Bid Bond submitted as Bid Security shall be in the form as provided on the Contract Documents and shall be issued by a surety company licensed to do business in the Commonwealth of Pennsylvania with an A.M. Best rating of A- or better. The failure of the Bidder to submit the Bid Security shall be conclusively treated as a deficiency requiring the rejection of the Bid. In the event of any inconsistency between a Bid Bond provided and these Instructions to Bidders, the Instructions shall control.

B. Such Bid Security shall be submitted with the understanding that it shall guarantee that the Bidder's Bid will not be withdrawn for the period of time allowed by Pennsylvania Act 1978-317, as amended and other provisions of applicable law; that, if the Bid is accepted, the Bidder will execute the Form of Agreement, Payment and Performance Bonds, insurance certificates, and other submittals required by Paragraph 1.18 of these Instructions; and that in the event of withdrawal of said Bid within said period, the failure to furnish documents or information requested to cure a deficiency in the Bid, or the Bidder's failure to enter into said Agreement or provide the submittals required after notice of intent to award has been issued, the Bidder shall be liable to the above mentioned Owner for the full amount of such Bid Security as representing the damage to the Owner on account of the default of the Bidder in any particular hereof.

C. The successful Bidder's Security will be retained until he has signed the Contract and furnished the required submittals. The Owner reserves the right to retain the Security of the next two (2) lowest Bidders until the lowest Bidder enters into a Contract or until 60 days after bid opening, whichever is the shorter. All other Bid Security will be returned as soon as practical. If any Bidder refuses to enter into a Contract, the Owner will retain his Bid Security as liquidated damages. Bidder acknowledges that, by the submission of his Bid, the amount of these liquidated damages constitute reasonable compensation for the expense and administrative cost of re-bidding the contract and therefore is not a penalty.

1.08 BIDDER'S ACKNOWLEDGEMENTS REGARDING PROPOSED WORK

A. Contracts will be awarded with the understanding that the Bidder, prior to submission of the Bid, has become acquainted with the requirements of the Contract Documents for all Prime Contracts, the work performed by other contractors, the condition of the sites, the existing building, all utilities in existence (including those to which connections are to be made), and all other conditions of the sites and existing structures and has obtained all information necessary for the submission of his Bid and the completion of the Work on or before the submission of his Bid. Acknowledgement by the Bidder constitutes a binding agreement and understanding with the Owner that a claim may not be submitted based on a matter that is contrary to the subject of the acknowledgement.

B. In connection with the site, a walk-through will be conducted immediately following the mandatory, pre-bid meeting. Should the Bidder desire to obtain additional information and data, a written request shall be made to the Architect, in accordance with the provisions of Subparagraph 1.09.E of these Instructions.

C. The Bidder acknowledges that he has examined carefully and in detail the character of the Project sites, existing structures, roads, etc., the Contract Documents and all other matters pertinent to the Work contemplated. The Bidder has satisfied himself as to the conditions to be encountered overhead, on the surface and concealed, the character quality and quantities of work to be done and materials to be furnished, and the requirements of the Contract Documents. The Bidder acknowledges that the Owner makes no representations regarding the conditions found at the Project sites.

D. The Bidder acknowledges that he has carefully examined all Contract Documents and materials pertinent thereto, with respect to all the categories of Work for which the Owner had advertised and will receive proposals, and is completely aware and satisfied as to the character, quality and quantities of all Work, materials and for services required or to be provided or performed and will complete all Work of the Contract and further has examined the Work that will be required of the other Contractors employed by the Owner on the Project.

E. The Bidder acknowledges that, should Work to be performed be specified or indicated in more than one Prime Contract and no clarifications received by Addendum prior to Bid date, each Prime Contract Bidder so affected who is submitting a Bid shall consider the Work to be part of their Prime Contract. A subsequent determination will be made and an amount commensurate to the labor, material and equipment to be provided will be deducted from the Contractor determined not to be responsible.

F. The Bidder acknowledges that the Bidder has visited or has been given the opportunity to visit the Project site, has read the Contract Documents and understands their full character and intent, and that, should the Owner subsequently accept his proposal, no claims, allowances or concessions will be made, accepted or recognized at any future time for any additional labor, equipment or materials require, or for any difficulties encountered in the Work, or for the lack of any information which could have been foreseen, apparent or ascertained by the Bidder.

G. The Bidder acknowledges that he has ascertained all governmental and utility requirements with respect to wage scales, materials, labor, safety and sanitation and shall base his Bid prices on full compliance therewith.

H. The Bidder acknowledges that he has familiarized himself with labor conditions which might affect or influence the performance of the Work.

I. The Bidder acknowledges that he was afforded the opportunity to attend and participate in the pre-bid meeting.

J. The Bidder acknowledges that he is fully aware of the Owner's status as a governmental entity in relation to this Project and the requirements of Applicable Laws related to certain exemptions from the application of sales taxes and has reviewed any letter-ruling made available and obtained by the Owner from the Department of Revenue. See Section 00910.

K. The Bidder acknowledges that the Bidder and other Prime Contractors on the Project are responsible for coordination of their own construction activities and for resolving coordination issues between themselves in accordance with the General Conditions.

L. The Bidder acknowledges that he is aware and has been advised that the Contractor is solely responsible for initiating, maintaining and supervising all safety precautions and programs required under its portion of the Work and the Work of the Bidder's Subcontractors and Sub-subcontractors and that the Bidder has reviewed, evaluated and taken into consideration these requirements when submitting the Bid.

M. The Bidder acknowledges that he is aware and has been advised that his Subcontractors must be given these requirements for bidding purposes so as to ensure consistency and adherence to the Contract Documents, that the Bidder as Contractor is responsible fully to the Owner for the performance of his Subcontractors and that the Bidder will require each Subcontractor, through legally enforceable written agreements, to meet all of the responsibilities with respect to any portion of the Work performed by any Subcontractor.

N. The Bidder acknowledges that he assumes all risks resulting from any changes in the conditions which may occur during the progress of the Work, subject to the right of any Contractor to recover from another Prime Contractor damages for interference and delay.

O. The Bidder has reviewed the scheduling requirements issued by and on behalf of the Owner and appearing on the drawings and in the Specifications, including Section 010150, and has to the extent appropriate incorporated the information set forth therein in preparing his Bid.

1.09 UNDISCLOSED SITE AND BUILDING CONDITIONS

A. The Building Information was obtained by or on behalf of the Owner for the Architect's use in designing the Project. The Building Information has been provided or otherwise made available to the Bidders. The technical data found in the Building Information is represented to be accurate by Owner, but the conclusions and inferences that may be found in or inferred from the Building Information is not warranted and the accuracy or completeness of any such conclusions and inferences is not guaranteed by Owner, or Architect. The Contractors must assume all responsibility in performing Work for this Project and shall not rely on Building Information. The Bidder shall make his own investigation of the conditions in existing structures and at the Project sites.

B. If Bidder desires to obtain additional information or data to supplement that which exists in the form of Building Information, Bidder shall make a written request, directed to the Architect. Owner will, to the extent reasonably feasible, afford the Bidder the opportunity, at Bidder's own expense, to conduct additional tests and examinations and to make measurements and studies of all kinds; where Owner cannot grant such rights, it will cooperate with Contractor in endeavoring to secure such rights. The ground and existing structure shall be returned to its original condition as prior to testing. Owner may require a bond to secure the restoration of the original conditions.

1.10 REVIEW OF DRAWINGS AND SPECIFICATIONS AND ADDENDA

A. It is the intent of the Owner to fully clarify all requirements of the Contract Documents. If the Bidder is in doubt as the meaning of the Drawings and Specifications, or other Contract Documents, he may submit to the Architect, a written request on the attached form appearing here as Attachment A for interpretation or correction thereof. Requests to be given consideration must be received at least seven (7) calendar days prior to the bid date. The person submitting the request will be responsible for the prompt delivery of the Pre-Bid Request For Information (RFI). Any interpretation of the proposed documents will be made by Addendum only, duly issued. A copy of each addendum issued, will be sent to each company known to be contemplating the submission of a Bid and in the possession of a complete set of Bidding and Contract Documents. The addendum will be issued not later than 48 hours prior to the bid date. Neither the Architect nor Owner are responsible for any explanation or interpretation of the Bidding or Contract Documents transmitted orally or in any manner other than the issuance of an Addendum.

B. No recovery shall be allowed a Contractor who fails to request clarification of a Contract Document requirement for damages associated with that requirement. The Contractor shall not at any time after submission of the Bid, assert any claim whatsoever based upon insufficient data or incorrectly assumed conditions, nor shall the Contractor claim any misunderstanding in regard to the nature, conditions or character of the Work to be done under the Contract as to which the Contractor failed to inquire.

C. The Bidder shall contact the Architect prior to the submission of the Bid to secure information on the latest Addenda issued. All Addenda shall become part of the Contract Documents and all Bidders shall be bound by such Addenda, whether or not received by the Bidders and whether or not acknowledged in the Bid.

D. The Bidder must base his Bid on the products and manufacturers specified in the Contract Documents, as modified by written Addenda. No substitutions are permissible where the Contract Documents provide for: (i) three products and/or manufacturers; (ii) one explicitly identified proprietary manufacturer; or (iii) one manufacturer where there is no explicit limitation to an identified proprietary product and therefore equal products and/or manufacturers are permitted.

1.11 REGULATIONS, APPLICABLE LAW AND PERMITS

A. The law of the Commonwealth of Pennsylvania shall govern the interpretation of this Contract. Applicable law may include any of the following:

1. The Pennsylvania statewide building code: Act 45 - The Uniform Construction Code (UCC) Act of 1999, which adopts the International Code Council Family of Codes - 2003, except that the UCC Administrative Regulations replace Chapter One of each of the International Codes.
2. Lackawanna County Plumbing and Health Departments.
3. City of Scranton ordinances, codes, and regulations.

B. The general prevailing minimum wage rates, as determined by the Pennsylvania Department of Labor and Industry, Bureau of Labor Law Compliance for Prevailing Minimum Wage Predeterminations, shall be paid for each craft or classification of all workers needed to perform the Contract during the anticipated term thereof.

C. Bids shall be submitted on the basis of full and total compliance with all Federal and State laws, regulations, statutes and requirements pertaining to this Project. Bidder shall contact prior to bidding, the

local municipality having jurisdiction and ascertain the building codes, permits, fees, and regulations pertaining to this Project. The Bidder shall determine what local ordinances, if any, will affect his Work and shall check for any county, city, borough, or township rules and regulations applicable to the area in which the Project is being constructed and, in addition, for any rules or regulations of other organizations having jurisdiction such as planning commissions, industries or utility companies. Any costs of compliance with local controls shall be included in the Bid, even though requirements of such local controlling agencies are not listed herein.

D. The Bidder shall contact the local authorities regarding any requirements for Contractor Licenses and/or bonding, and any ordinances which may restrict early morning, late evening, and/or weekend work hours, as well as any restrictions regarding access routes to the Project sites.

E. The Owner shall be solely responsible for the cost associated with obtaining the General Building Permit or Permits for the Projects. The Contractor awarded the General Trades Contract shall cooperate with the Owner in connection with the application for this Permit and payment of the appropriate fee. The Bidder shall include the cost of all building permits and licenses in his Bid, but the cost of the General Building Permit shall be excluded from the Bids and will be paid for by the Owner directly. If for any reason the General Trades Contractor is required to pay the cost of the General Building Permit, Owner shall reimburse the General Trades Contractor for that expense, without markup.

1.12 PRE-BID CONFERENCE

A. The time and place for the Pre-bid Conference and walk-through appears in the Instructions to Bidders.

B. Questions from this meeting requiring modification of Contract Documents will be addressed in an Addendum or Addenda. The Bidder may not rely on the answers and responses given orally and may rely only on written answers to questions raised at pre-bid meeting that are included in an Addendum.

1.13 COMPLETION OF WORK AND LIQUIDATED DAMAGES

A. The Bidder shall submit his Bid with the understanding that (1) the Contractor shall begin on the date indicated in or established by the Notice to Proceed and shall carry the Work forward expeditiously to achieve Contract Milestones and Substantial Completion on or before the times stipulated in the Contract Documents, (2) the time for the completion of the Work shall be considered of the essence of this Contract, and (3) for the costs of extra inspection, salaries of contingent forces and other expenses entailed by the Owner by delay in completing the contract, said Owner shall be entitled to liquidated damages, and not as a penalty, in the amounts set forth in the Contract Documents for each and every calendar day's delay, provided that the delay was not solely caused by the Owner or not otherwise excused in accordance with the General Conditions and other Contract Documents.

B. In the event that the Work must be conducted beyond the normal working hours specified or if the project is not completed by the specified duration, the Contractors shall reimburse the Consultants (A/E, CM, etc.) for all their additional expenses. Expenses shall be calculated at the cost times 2.75 on labor and costs times 1.15 on all other items.

C. The reimbursement set forth above are in addition to liquidated damages, if any, and shall be paid to the Consultants by the Contractors prior final payment or the amounts shall be deducted from Contractors final payment. Reimbursement to the Consultants for additional expenses shall not apply to the extent

that their overtime or extension is the fault of the Consultant or beyond the reasonable control of the Contractor.

1.14 PREPARATION AND PRESENTATION OF BIDS

A. Each Bidder shall submit a single original Bid using the Bid Form and one copy. The Bid must be delivered in a sealed opaque envelope on or before the time and at the place stated above. Transmission of a Bid by electronic means, verbally or by facsimile is not permitted. Name of the Bidder, Prime Contract Name and Number shall appear on the face of the bid envelope. If more than one copy of a Bid, or more than one Bid, is enclosed in a single envelop, the Owner shall accept for review the copy of a Bid or the Bid that is in the Owner's sole judgment the more favorable. Nothing herein precludes Bidder from submitting more than one Bid in separate envelopes. Contractors bidding on more than one prime contract must submit bids in separate appropriately marked envelopes.

B. An original Bid Form for use by Bidder shall be furnished with the Bidding Documents.

C. The failure to execute or complete a blank on the Bid Form shall cause the Bid to be rejected only if the amount of the Base Bid or Bid for an Alternate or Unit Price cannot be determined. The failure of the Bidder to sign the Bid Form shall be conclusively treated as a nonresponsive Bid and the Bid shall be rejected. The failure to attest to the signature made on behalf of a corporate Bidder or a Bidder which is Limited Liability Company shall not make the Bid nonresponsive. If the Bid Form is inconsistent, the interpretation most favorable to the Owner will govern.

D. The blanks provided for the entry of sums on the Bid Form shall permit the Bidder to enter its Bid in words, or in numerical figures, or in both words and numerical figures. In case of discrepancy where both words and numerical figures are entered, the numerical figures shall control. No Bid shall be rejected solely by reason of the failure to enter sums in both words and numerical figures provided that a sum is ascertainable. If a sum is ascertainable, the Bid will conclusively be determined to be responsive.

E. All Bids should be regular in every respect and interlineations, additions, excisions or conditions made or included in the completed Bid Form by the Bidder shall be disregarded and the Bid accepted. Only in the event that, notwithstanding the disregard of the interlineation, addition, excision or condition, the amount of the Base Bid or Bid for an accepted Alternate Bid cannot be determined shall the Bid be rejected.

F. (1) All requested Alternates shall be bid. If an alternate price called for does not involve a change in price, the Bidder shall so indicate by writing "No Change", "None", "Zero", "0", "No cost", "N/A" or the equivalent of any of these entries, in the space provided. The Bidder shall not be permitted to refuse to bid on an Alternate. The use of any of the above-identified entries, or the failure to enter an amount in the blank for an Alternate, shall be treated conclusively as a Bid of zero dollars for the Work described in the Alternate. The failure to indicate whether a sum inserted for an Alternate is an "add" or a "deduct" shall be treated conclusively as a deduction to the Base Bid.

(2) The Owner may designate certain Alternates as "Option Alternates" in the Bid Form. The designation of an Alternate as an Option Alternate does not cause the Option Alternate to lose its character as an Alternate under the Contract Documents. All requested Alternates, including Option Alternates, shall be bid. The price of all Option Alternates selected at the time of award by the Owner shall be included in the calculation of lowest price for the Work.

(3) The price of all Option Alternates not selected at the time of the award shall be held and preserved for the duration of the Project. The Owner shall have the right, at its option, to select an Option Alternate during the course of construction and to direct that the Contractor perform the Work which the Option Alternate identifies and to cause to be prepared a Change Order or Construction Change Directive to compensate the Contractor in the amount originally bid.

G. All requested Unit Prices shall be bid. If an alternate price called for does not involve a change in price, the Bidder shall so indicate by writing "No Change", "None", "Zero", "0", "No cost", "N/A" or the equivalent of any of these entries, in the space provided. The Bidder shall not be permitted to refuse to bid on an Alternate. The use of any of the above-identified entries, or the failure to enter an amount in the blank for an Alternate, shall be treated conclusively as a Bid of zero dollars for the Work described in the Alternate.

H. All requested Unit Prices for which estimated quantities have been provided in the Bid Form or elsewhere in the Contract Documents shall be bid. The cost of Unit Price Work for which estimated quantities have been provided shall be included in the Base Bid. If the Unit Price Work will be performed at no cost to the Owner, the Bidder shall so indicate by writing "No Change", "None", "Zero", "0", "No cost", "N/A" or the equivalent of any of these entries, in the space provided. The Bidder shall not be permitted to refuse to bid on a Unit Price. The use of any of these entries, or the failure to enter an amount in the blank for Unit Price Work shall be treated conclusively as a Bid of zero dollars for that Work.

I. All requested Unit Prices for which no estimated quantities are provided in the Bid Form shall also be bid. If the Unit Price Work will be performed at no cost to the Owner, the Bidder shall so indicate by writing "No Change", "None", "Zero", "0", "No cost", "N/A" or the equivalent of any of these entries, in the space provided. The use of any of these entries, or the failure to enter an amount in the blank for Unit Price Work shall be treated conclusively as a Bid of zero dollars for that Work.

J. The Bidder shall not condition, qualify or otherwise assert a stipulation of any kind in the Bid. Any condition, qualification or stipulation added to the Bid Form shall be disregarded and the Bid accepted as if the condition, qualification or stipulation did not appear. Only in the event that, notwithstanding the disregard of the condition, qualification or stipulation, the amount of the Base Bid or Bid for an accepted Alternate cannot be determined shall the Bid be rejected.

K. The Bid Form must be signed by and on behalf of the Bidder, using any readable medium. The failure of the Bidder to submit and sign the Bid Form and submit Bid Security shall be conclusively treated as a deficiency requiring the rejection of the Bid. The failure to provide an attestation to the signature of the Bidder shall be conclusively treated as an irregularity which, in the discretion of Owner may be ignored and the Bid accepted, provided that the attestation is submitted after the Bid within three (3) business days of written notice from Owner of the deficiency and of the opportunity to cure. If the Bidder fails to cure within the three (3) days or other period provided, the Bidder shall forfeit its Bid Security, the Bid shall be rejected as nonresponsive, and the Bidder shall be deemed not a responsible contractor for the next two construction solicitations issued by Owner.

L. The failure to complete the envelope containing the completed Bid Form with the information required by this Paragraph shall be conclusively treated as an irregularity which, in the discretion of Owner may be ignored and the Bid accepted, provided that the omitted information or missing portion of the information is submitted after the Bid within three business (3) days of written notice from Owner of the deficiency and of the opportunity to cure. If the Bidder fails to cure within the three days or other period provided, the Bidder shall forfeit its Bid Security, the Bid shall be rejected as nonresponsive, and

the Bidder shall be deemed not a responsible contractor for the next two construction solicitations issued by Owner.

M. Bids may be submitted by sole proprietors, partnerships, corporations, limited liability companies and forms of business organizations that are for the purposes of the Contract a functional equivalent. Each Bidder must complete the Bid Form by entering the information requested, including for example the name of the Bidder, the name of the person signing the Bid, the Bidder's business address with ZIP code, and other information of the type required by sub-subparagraphs to this Subparagraph. With the exception of the failure of the Bidder to sign the Bid Form, the failure to complete the Bid Form with regard to such information shall be conclusively treated as an irregularity which, in the discretion of Owner may be ignored and the Bid accepted, provided that the omitted information or missing portion of the information is submitted after the Bid within three business (3) days of written notice from Owner of the deficiency and of the opportunity to cure. If the Bidder fails to cure within the three days or other period provided, the Bidder shall forfeit its Bid Security, the Bid shall be rejected as nonresponsive, and the Bidder shall be deemed not a responsible contractor for the next two construction solicitations issued by Owner. The failure of the Bidder to sign the Bid Form shall be conclusively treated as a deficiency requiring the rejection of the Bid, and the Owner may award to the next lowest responsible and responsive Bidder.

N. Bids by sole proprietors must be signed by the individual proprietor and witnessed. Any fictitious name or name under which the sole proprietor trades must be stated.

O. Bids by partnerships must furnish the full name of one or more general partners, and must be signed in the partnership name by one or more general partners, followed by a listing of the names of all partners.

P. Bids by corporations must be signed by the president of the corporation, a vice president of the corporation, or another corporate representative whose authority is established by an attached resolution. The signature of the representative must be witnessed and attested to by a secretary, assistant secretary, treasurer, assistant treasurer, or another corporate representative whose authority is established by an attached resolution. The Bid of a corporation does not require the affixing of the corporate seal. Any corporate resolutions attached to the Bid in order to establish the authority of a corporate representative may be dated as of the date of the Bid, or for a period of no more than one year prior thereto.

Q. Bids by a Limited Liability Company or LLC, or equivalent form of business organization, must submit the Operating Agreement or similar documentation, establishing the authority of the representative who executes the Bid and the authority of the representative who attests to the validity of the signature.

R. When requested by the Owner, satisfactory evidence of the authority of the individual signing on behalf of the Bidder or attesting to the signature shall be furnished. The failure to furnish satisfactory evidence of the authority of the individual within three (3) business days, shall be conclusively treated as a deficiency requiring the rejection of the Bid.

S. The Bidder shall insert the Addendums by number in the spaces provided on the Bid Form. The Bidder shall ascertain, prior to submitting a Bid, that the Bidder has received all Bulletins and other Addenda issued. Bidder by the submission of the Bid, acknowledges conclusively that all Addenda properly issued are applicable and operative as a part of the Contract Documents. Failure of any Bidder to receive any Bulletin or Addenda as provided for herein shall not release such Bidder from the obligation of his Bid and the obligation to comply with the provisions of the Addenda. The failure to list one or more of the Addendum numbers on the Bid Form does not make the Bid nonresponsive.

T. (1) As a precondition to the reading and acceptance of any Bid tendered by any corporation not incorporated in the Commonwealth of Pennsylvania, or the Bid of any other form of business organization including but not limited to a sole proprietorship, a limited partnership or a limited liability company not domiciled in the Commonwealth, the corporation, limited liability company, limited partnership or sole proprietorship shall comply with any applicable Commonwealth requirements related to registration.

(2) A corporation not incorporated in the Commonwealth shall provide a Certificate of Authority, or if a Certificate has neither been issued or denied the application for the Certificate, as an attachment to the Bid. This Certificate of Authority shall be issued by the Department of State, Commonwealth of Pennsylvania, pursuant to the provisions of Section 4121 of the Business Corporation Law of 1988 (15 Pa. C.S. § 4121) of the Commonwealth of Pennsylvania.

(3) A foreign limited liability company and a foreign limited liability partnership shall comply with the registration requirements set forth in 15 Pa. C.S. § 8981 and § 8582 respectively.

(4) A Bidder who has adopted any other form of business organization, including but not limited to a sole proprietorship, and is not domiciled in the Commonwealth, shall establish that he has complied with applicable registration requirements or that no such requirements exist under Applicable Laws.

(5) Failure of a corporation, limited liability company, limited partnership or sole proprietorship to attach said proof of registration, or the application, to the Bid shall be conclusively treated as an irregularity which, in the discretion of Owner may be ignored and the Bid accepted, provided that the Certificate of Authority or other proof of registration, or the pending application, is submitted after the Bid within three (3) days of written notice from Owner of the deficiency and of the opportunity to cure. If the Bidder fails to cure within the three days or other period provided, the Bidder shall forfeit the Bid Security, the Bid shall be rejected as nonresponsive, and the Bidder shall be deemed not a responsible contractor for the next two construction solicitations issued by Owner. The failure to provide proof of registration or a pending application upon the issuance by the Owner of the notice of award shall constitute a failure of a condition subsequent and shall be judged as sufficient cause to reject the Bid, and the Owner may award to the next lowest responsible and responsive Bidder.

(6) As of June 2004, the administration of these requirements was through the Pennsylvania Department of State, Corporation Bureau, 206 North Office Building, Harrisburg, PA 17120, telephone (717) 787-1057, facsimile (717) 783-2244.

U. In all instances where an additional period of time is allowed for the submission of additional documents or information, and the Bidder fails to submit in a timely manner the documents or information, the Owner retains the discretion to take one or more of the following actions: (1) reject the Bid, (2) award to the next lowest bidder, and (3) deem the Bidder to be not a responsible contractor for the next two construction solicitations issued by Owner.

1.15 CONTRACT FORMS AND SUBMITTALS

A. Bids and Bid Security, in accordance with the Invitation to Bid and these Instructions to Bidders, must be submitted in an opaque sealed envelope and addressed to:

Mr. Thomas Oleski
Director/ BCO
Licensing, Permits and Inspections

340 North Washington Ave
Scranton, PA 18503

and shall be marked: "Bid for Proposed City of Scranton City Hall South tower Restorations"

B. The completed Bid must be accompanied by additional documents, completed as required by the Bidding Documents, including:

1. Bid Security
2. Non-Collusion Affidavit, using the form found in Division 00.
3. Contractor's Qualifications Statement, using the form found in Division 00.
4. Certificate of Authority or its equivalent for an out-of-state Bidder or, if a Certificate has neither been issued or denied, the application for the Certificate
5. Operating Agreement of a Limited Liability Company (LLC), or equivalent form of business organization.

C. The failure of the Bidder to submit with his completed and signed Bid Form and the Bid Security, the other documents listed in this Paragraph 1.15 shall be conclusively treated as an irregularity which, in the discretion of Owner may be ignored and the Bid accepted, provided that the omitted document or missing portion of the document is submitted after the Bid within three (3) days of written notice from Owner of the deficiency and of the opportunity to cure. If the Bidder fails to cure within the three (3) days or other period provided, the Bidder shall forfeit its Bid Security, the Bid shall be rejected as nonresponsive, and the Bidder shall be deemed not a responsible contractor for the next two construction solicitations issued by Owner.

D. In accordance with the Pennsylvania Antirbid-Rigging Act, 62 Pa.C.S. § 4501 et seq., the Bidder shall submit with his Bid a Non-Collusion Affidavit.

E. The Bidder shall submit a completed Qualifications Statement, reflecting a good-faith effort at providing complete information in response to the questions therein. No Bidder will be disqualified on the ground of nonresponsiveness unless the effort at completing the form is substantially incomplete or demonstrates bad faith. Before making an award, Owner may require any Bidder, upon at least three (3) days' notice, to present satisfactory evidence, in form specified by the Owner and in addition to the materials provided in the completed Qualifications Statement, of his experience, qualifications, financial ability, and other matters reasonably related to his ability to satisfactorily perform and complete the Work covered by his proposal, or reasonably related to his integrity as a public contractor. An apparent low Bidder shall upon request submit the most recent audited financial statement or, if an audited financial statement is unavailable, a financial statement prepared after a compilation or review, within three (3) days of the Owner's request. Owner may direct that Bidder appear, by designated representatives, at a meeting called to consider Bidder's responsibility as a contractor under applicable law. The Owner reserves the right to request such other information or data as the Owner and its representatives may deem necessary to evaluate the qualifications of the Bidder and to consider such matters, facts and circumstances presented by the Bidder as shall be permitted by Pennsylvania law in making a determination whether the Bidder is a responsible Bidder.

F. An out-of-state Bidder shall submit a Certificate of Authority or its equivalent, or, if a Certificate has neither been issued or denied, the application for the Certificate, in accordance with Subparagraph 1.14.U(2).

G. A Bidder which is a Limited Liability Company (LLC), or equivalent form of business organization, shall comply with the requirements of 1.14.R.

1.16 BID WITHDRAWAL AND TIME ALLOWED FOR MAKING AWARD

A. The Bidder may withdraw his Bid at any time up to the scheduled time for opening of Bids. The withdrawal of a Bid prior to the deadline for bidding may occur only by an official representative of the Bidder. Resubmitted Bids are permitted, provided that the resubmitted Bid meets all the requirements of a Bid under the Contract Documents, including the requirement of submission prior to the bidding deadline. Bids may not be modified after the deadline for submittal.

B. After the deadline for submittal, no Bid may be withdrawn except as permitted by the Bid Withdrawal Act.

C. Bids may not be modified or withdrawn by the Bidder for sixty (60) calendar days following the opening of Bids. However, if award of the Contract is delayed by the required approval of another government agency, the sale of bonds or the award of grants or grant, the Bids may not be withdrawn by the Bidder for a period not to exceed 120 calendar days from the date of bid opening in accordance with Pennsylvania law. The deadline for award and the issuance of a notice of award may be extended by mutual written agreement of the Bidder and Owner.

1.17 AWARD OF CONTRACT

A. The Contract will be awarded in accordance with the provisions of applicable law, to the lowest responsible Bidder provided the Bid complies with the requirements of these Instructions to Bidders and other Contract Documents and is reasonable and provided further that it is in the best interests of the Owner to accept it.

B. The Owner shall have the right to accept Alternates in any order or combination and to determine the low Bidder on the basis of the sum of the Base Bid and Alternates accepted on the date of Contract Award.

C. The Owner reserves the right to waive any informality in bids when such waiver is in the interest of the Owner and as may be permitted by these Instructions.

D. The Owner reserves the right to reject any and all bids when such rejection is in the interest of the Owner, and to reject the bid of any Bidder, who in the Owner's judgment, is not in position to perform the Contract. The Owner reserves the right to reject an unbalanced Bid, including a Bid with a Unit Price that unreasonably states the cost to the Bidder of a unit of Work or a Bid with an Alternate that is intended to be selected by the Owner and that is priced in an amount that unreasonably varies from the Alternate's cost to the Bidder.

E. The Resolution of the Owner's City Council, selecting a Bidder as the successful contractor on the Bid, shall constitute (1) notice of the intent to award for the purpose of Paragraph 1.18, and (2) the award for the purpose of the deadline for awarding a contract under the Award and Execution of Contracts Act.

F. Each Bidder agrees to waive any claim it has or may have against the Owner, the Architect, and their respective employees, arising out of or in connection with the administration, evaluation, or recommendation of any bid.

1.18 SUBMITTALS REQUIRED POST-AWARD

A. The Owner, during the period allowed and any extensions thereof, in its sole discretion, may after selection of a Bidder issue a notice of intent to award. Any such notice is not a Contract Document. Thereafter, Owner may award a Contract to the Bidder selected by Owner and sign the Owner-Contractor Agreement, provided that the Bidder delivers to the Owner (by delivery to the Architect unless an Owner's notice of intent to award shall designated a different place) within seven (7) days of notice the following:

1. Executed Agreement (executed in the required number of counterparts) in the form set forth in the Contract Documents.
2. Performance and Payment Bonds in the form set forth in Contract Documents and in accordance with these Instructions to Bidders.
3. Insurance Certificates, policies or other evidence of insurance for insurance coverages that the Contractor is required to maintain.
4. Corporate resolutions showing authorization of representative to sign the Agreement (other than the officials specified in Subparagraph 1.14.Q), and similar documents showing the authorization of a representative of a Limited Liability Company to sign, under Subparagraph 1.14.R).
5. Other documents and submittals required by the Contract Documents.

Failure of the Bidder to whom notice of intent to award has been given to deliver above items required by the Contract Documents within seven (7) days shall constitute grounds for the Owner to declare the Bidder's Bid Security forfeited and to award to another Bidder, unless.

B. The Owner-Contractor Agreement in final form will be prepared by Owner using the form identified in the Contract Documents.

C. Bidder shall furnish a Performance Bond and a Payment Bond on the forms provided, each in the amount of one hundred percent (100%) of the total amount of the Contract, including Alternates and included Unit Prices, in triplicate, with a Surety Company acceptable to the Owner. At least one (1) copy of the Bonds must be an original. The Attorney-in-Fact who executes the Payment and Performance Bonds on behalf of the Surety Company shall affix to the bonds a certified and current copy of its Power of Attorney, authorizing said Attorney-in-Fact to act on behalf of the Surety. The Surety Company shall be licensed in the Commonwealth of Pennsylvania with an A.M. Best rating of no less than A minus. The Bonds shall be dated, the Power of Attorney must be dated the same day as the Bonds and both the Bonds and Power of Attorney shall have affixed the raised corporate seal of the surety. The Agreement shall be executed by the President or a Vice President of the Corporation and the execution of the Agreement shall be attested to by the Secretary, an Assistant Secretary, the Treasurer or an Assistant Treasurer. If an officer other than one of these enumerated officers signs or attests to the Bond, the Bond shall be accompanied by documentation establishing the authority of the officer to sign or to attest.

D. The Contractor shall deliver said Bonds to the Owner not later than seven (7) days after issuance of the intention to award or notice to proceed and prior to executing the agreement. Failure or neglecting to

deliver said Bonds, as specified, shall be considered as having abandoned the Contract and the Bid Security will be retained as liquidated damages.

- E. The insurance certificates submitted must meet the requirements set forth in the General Conditions.
- F. After approval of Agreement, Bonds, insurance, and other submittals, the Owner will sign and date the Agreement. Owner shall return to the successful Bidder within a reasonable period of time one (1) original of the dated, executed Agreement.

1.19 OTHER LAWS AND REGULATIONS

A. The Bidder's attention is directed to the fact that all applicable Federal and State laws, municipal ordinances and codes, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Contract throughout, and they are deemed to be included in the Contract the same as though herein written in full.

B. Federal Occupational Safety and Health Act of 1970 (OSHA)

1. Attention is directed to the terms, provisions and conditions of the William-Steiger Safety and Health Act of 1970, which is specifically applicable to this Project.
2. The Contractor agrees to be bound by them and further agrees and promises to conform and comply with the Standards set forth in the Act.
3. The Contractor is required to promptly perform all reporting and recording, compliance and safety as required by said Act.

C. Pennsylvania Act 287 - Utilities Protection: (Not Required)

The Contractor will be responsible for complying with Pennsylvania Act 287, commonly known as the "Call Before You Dig Act". Excavation or digging Contractors may learn the utilities and authority Owners by calling 1-800-242-1776 statewide prior to excavation work. One call locates utility lines and the utilities are notified.

D. Pennsylvania Prevailing Wage Act 442:

1. The general prevailing minimum wage rates including contributions for employees benefits as shall have been determined by the Secretary of Labor and Industry which must be paid to the workman employed in the performance of the Contract are included in this Project Manual.

The Contract shall specifically provide that the Contractor shall pay no less than the wage rates as determined in the decision of the Secretary of Labor and Industry and shall comply with the conditions of the Pennsylvania Prevailing Wage Act approved August 15, 1961 (Act No. 442), as amended August 9, 1963, (Act No. 342), and the Regulations issued pursuant thereto, to assure the full and proper payment of said rates.

2. The Contract shall contain the stipulation that such workmen shall be paid no less than such general prevailing minimum wage rates and such other provisions to assure payment thereof as heretofore set forth in this Section.

3. The Contract provisions shall apply to all work performed on the contract by the contractor and to all work performed on the contract by all subcontractors.
4. The Contractor shall insert in each of their subcontracts all of the stipulations contained in these required provisions and such other stipulations as may be required.
5. The Contract shall provide that no workmen may be employed on the public work except in the classifications set forth in the decisions of the Secretary of Labor and Industry. In the event that additional or different classifications are necessary the procedure set forth in Section 7 of these Regulations shall be followed.
6. The Contract shall provide that all workmen employed or working on the public work shall be paid unconditionally, regardless of whether any contractual relationship exists or the nature of any contractual relations which may be alleged to exist between any contractor, subcontractor and workmen, not less than once a week without deduction or rebate, on any account, whether directly or indirectly, except authorized deductions, the full amounts due at the time of payment, computed at the rates applicable to the time worked in the contract, the Act, or these Regulations shall prohibit the payment of more than the general prevailing minimum wage rates as determined by the Secretary to any workman on the public work.
7. The Contract shall provide that the contractor and each subcontractor shall post for the entire period of construction the wage determination decisions of the Secretary of Labor and Industry, including the effective date of any changes thereof, in a prominent and easily accessible place or places used by them to pay workmen their wages. The posted notices of wage rates must contain the following information:
 - a. Name of project.
 - b. Name of public bid of which it is being constructed.
 - c. The crafts and classifications of workmen listed in the Secretary's general prevailing minimum wage rate determination for the particular project.
 - d. The general prevailing minimum wage rates determined for each craft and classification and the effective date of any changes.
 - e. The statement advising workmen that if they have been paid less than the general prevailing minimum wage rate for their job classification or that the contractor and/or subcontractor are not complying with the Act or these Regulations in any manner whatsoever, they may file a protest in writing with the Secretary of Labor and Industry within three (3) months of the date of the occurrence, objecting to the payment to any contractor to the extent of the amount or amounts due or to become due to them as wages for work performed on the public work project. Any workmen paid less than the rate specified in the contract shall have civil right of action for the difference between the wage paid and the wages stipulated in the contract, which right of action must be exercised within six (6) months from the occurrence of the event creating such right.
8. The Contract shall provide that the contractor and all subcontractors shall keep an accurate record showing the name, craft and/or classification, number of hours worked per day and the actual hourly rate of wage paid (including employee benefits) to each workman employed by them in connection with the public work and such record must include any deductions from each workman. The record shall be preserved for two years from the date of payment and shall be open at all reasonable hours to the inspection of the public body awarding the contract and to the Secretary of Labor and Industry or his duly authorized representatives.

9. The Contract shall provide that apprentices shall be limited to such members as shall be in accordance with a bona fide apprenticeship program registered with and approved by the Pennsylvania Apprenticeship and Training Council and only apprentices whose training and employment are in full compliance with the provisions of the Apprenticeship and Training Act approved July 14, 1961 (Act No. 304) and the Rules and Regulations issued pursuant thereto shall be employed on the public work project. Any workman using the tools of a craft who does not qualify as an apprentice within the provisions of this subsection shall be paid the rate predetermined for journeyman in that particular craft and/or classification.
10. Wages shall be paid without any deductions except authorized deductions. Employers not parties to a contract requiring contributions for employee benefits which the Secretary of Labor and Industry has determined to be included in the general prevailing minimum wage rate shall pay the monetary equivalent thereof directly to the workman.
11. Payment of compensation to workmen for work performed on public work on a lump sum basis, or a piece work system, or a price certain for the completion of a certain amount of work, or the production of a certain result shall be deemed a violation of the Act and these Regulations, regardless of the average hourly earnings resulting therefrom.
12. The Contract shall also provide that each contractor and each subcontractor shall file a notarized statement each week and a final statement at the conclusion of the work on the contract with the Owner, under oath, and in form satisfactory to the Secretary of Labor and Industry, certifying that all workmen have been paid wages in strict conformity with the provisions of the contract as prescribed by this Section 3 of these Regulations, or if any wages remain unpaid to set forth the amount of wages due and owing to each workman respectively. Classification of workman used on the certified payroll form shall exactly match the classifications put forth by the Department of Labor and Industry in their prevailing wage determination for the project.
13. The provisions of the Act and these Regulations shall be incorporated by reference in the contract.

E. Nondiscrimination.

1. According to 62 Pa. C.S.A. § 3701, the Contractor agrees that:
 - a. In the hiring of employees for the performance of work under the contract or any sub-contract, no contractor, sub-contractor, or any person acting on behalf of the contractor or sub-contractor shall by reason of gender, race, creed or color discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
 - b. No contractor or sub-contractor or any person on their behalf shall in any manner discriminate against or intimidate any employee hired for the performance of work under the contract on account of gender, race, creed or color.
 - c. The contract may be canceled or terminated by the government agency, and all money due or to become due under the contract may be forfeited for a violation of the terms or conditions of that portion of the contract.

F. Human Relations Act.

1. The provisions of the Pennsylvania Human Relations Act, Act 222 of October 27, 1955 (P.L. 744) (43 P.S. Section 951, et seq.) of the Commonwealth of Pennsylvania prohibit discrimination because of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, by employees, employers, employment agencies, labor organizations, Contractors and others. The Contractor shall agree to comply with the provisions of this Act as amended that is made part of the Specifications. Your attention is directed to the language of the Commonwealth's non-discrimination clause in 16 Pa. Code 349.101.

G. Steel and Steel Products Procurement.

In accordance with Act 3 of the 1978 General Assembly of The Commonwealth of Pennsylvania approved March 3, 1978, and as amended by Act 161 of 1982, and by Act No. 1984 44, if any steel or cast iron products are to be used or supplied in the performance of this Contract only steel or cast iron products produced in the United States as defined therein, shall be used or supplied in the performance of the Contract or any contracts thereunder.

H. Taxes

1. Contractor shall be responsible for and shall pay all applicable sales, use, excise or other taxes required by law on all materials, tools, apparatus, equipment, fixtures, services, incidentals or otherwise which may be purchased or used in connection with the Work or portions thereof. The Bid shall be made in accordance with such laws and shall include all applicable taxes in the Bid amount.
2. Notwithstanding the foregoing, however, Owner is exempt from sales and/or use tax in Pennsylvania on certain transactions. Contractor and all subcontractors shall comply with the requirements in the General Conditions pertaining to the payment of taxes.

I. Standard of Quality.

The various materials and products specified in the Contract Documents by name or description are given to establish a standard of quality and of cost for bid purpose. Refer to Section 016000 regarding Product Requirements.

J. Asbestos-Free Certification.

The successful Contractor shall certify that "no asbestos containing materials" (ACM) and no "asbestos containing building materials" (ACBM) in this installation.

K. No Drugs or Alcohol on the Project sites.

The performance of Work at the Project sites is governed by the Owner's policies on drug and alcohol free workplaces. Contractor's employees will abide by the same prohibitions as are applicable to the Owner's employees. Any person discovered on site with/or under the influence of any illegal drugs or alcoholic beverages will be told to leave the Project sites by the appropriate Prime Contractor, and shall not be permitted to return. Each Prime Contractor shall be responsible to monitor and enforce this issue with his own employees and those of the subcontractors.

L. No Weapons on the Project sites.

Any person discovered on site possessing a weapon will be told to leave the Project sites by the appropriate Prime Contractor, and shall not be permitted to return. Each Prime Contractor shall be responsible to monitor and enforce this issue with his own employees and subcontractors.

M. Pollution Control - Preservation Of Natural Resources.

1. In compliance with Act No. 247 of the 1972 Session of General Assembly of the Commonwealth of Pennsylvania, Federal and/or State statutes, rules or regulations dealing with the prevention of environmental pollution and preservation of public natural resources that may affect the Specifications. The Contractor shall fully comply with the latest revisions of said Acts and shall ensure compliance by all of the Contractor's Subcontractors.
2. All demolition and construction waste materials and/or rubbish shall be disposed of off the project site. All demolition and construction waste materials and/or rubbish shall be disposed of in accordance with the latest Pennsylvania Solid Waste Laws at an approved facility.
3. The Architect has obtained from the Pennsylvania Department of Environmental Protection an approved plan for soil erosion control. This plan is to be considered as part of the Contract Documents. The General Contractor shall maintain the plan on the project site at all times and shall be responsible for complying with all laws, regulations and guidelines of the Department.

N. Waiver of Right-to-Know

By submission of a Bid, Successful Bidder agrees to waive all rights provided by Pennsylvania's Right-to-Know Law to secure documents from Owner in connection with any contract awarded to Successful Bidder by Owner. The purpose of this waiver is to protect the interests of Owner in the orderly review any claims or disputes between Owner and Successful Bidder and the orderly and efficient processing of any claim or dispute in accordance with the dispute resolution provision of the Contract with Owner. Bidder further agrees that this waiver applies to any legal person acting on behalf of Successful Bidder, including but not limited to attorneys engaged by Successful Bidder, and his directors, officers, employees, agents, consultants, and representatives. The submission of a Right-to-Know request to secure documents from Owner in connection with any contract awarded to Successful Bidder by Owner that is not withdrawn within three day of receipt of a written request from Owner invoking the provisions of this subparagraph shall subject Successful Bidder to the imposition of liquidated damages in the amount of Ten Thousand Dollars (\$10,000.00).

END OF DOCUMENT 002114

ATTACHMENT "A"

Scranton City Hall South Tower Restoration

Request for Information
Pre-bid use only

To: Highland Associates Architects
Highland Center
102 Highland Avenue
Clarks Summit, PA 18411
Phone: 570-586-4334 Fax: 570-586-5990
E-mail: dmarcinkevich@ha-pa.com

Bid RFI# _____
To be completed by Architect

Date: _____

Contractor: _____
Address: _____
Phone: _____ Fax: _____

Request:

Contractor Recommendation:

Response:

Signed: _____

Date: _____

[Bidders are advised that, after award, this form of agreement will be adapted for each Prime Contract by the making of insertions and changes required by the instructions that are set off in brackets and by making changes to the signature lines as indicated below.]

SECTION 002144-2- OWNER-CONTRACTOR AGREEMENT

THIS AGREEMENT, executed this ___ day of _____ 2021 [insert month and year, with day to be inserted when last signature is affixed by the City], by and between the City of Scranton, with offices at 340 North Washington Ave., Scranton , PA 18503, and _____ [insert name of Contractor], located at _____ [insert address], a _____ [insert form of business organization such as corporation, LLC, etc.] organized under the laws of the State/Commonwealth of _____ [insert state where organized], hereinafter called the "Contractor."

ARTICLE 1 - THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement between the Owner and Contractor, and the documents identified in the Supplementary Conditions. These documents form the Contract, and all are as fully a part of this Agreement as if attached hereto or repeated herein.

ARTICLE 2 - THE WORK

The Contractor shall perform all the Work required by the Contract Documents for the City Hall South Tower Restoration as described in the Bidding and Contract Documents.

ARTICLE 3 - DESIGN AND CONSTRUCTION PROFESSIONALS

The Architect for the Project is Highland Associates, Ltd. Architecture Engineering Interior Design, 102 Highland Avenue, Clarks Summit, Pennsylvania 18411. The Owner's Representative for the Project is Mr. Thomas Oleski.

ARTICLE 4 - TIME OF COMMENCEMENT AND COMPLETION

The Work to be performed under this Contract shall be commenced with all off-site and on-site activities required by the Contract Documents after receipt of, and on the date or dates set forth in, the Notice or Notices to Proceed. The Contractor shall complete all contract Work to the satisfaction and approval, in every respect, of Owner, within the overall Contract Time for the Project and within the Completion Dates for Substantial and Final Completion. Contractor shall be substantially complete within 180 days of the issuance of the Notice to Proceed ("Substantial Completion") and finally complete within 30 days thereafter ("Final Completion," collectively, "Completion Dates). Contractor agrees that time is of the essence in the performance of this Contract, and that if he shall fail to complete the Work within the times specified for Substantial Completion the Contractor shall pay Owner, as Liquidated Damages and not as a penalty for each such failure, the amounts of Five Hundred Dollars (\$500.00) per day.

ARTICLE 5 - CONTRACT SUM

Owner shall pay the Contractor for the performance of the Work subject to additions and deductions by Change Order in current funds, the Contract Sum of \$_____.00 (_____ Dollars) [Insert the total contract amount in numerals and words, including Alternates] for the base bid and for Alternates numbered _____ [insert the numbers of the accepted Alternates], all as set forth in the General and Supplementary Conditions of the Contract.

ARTICLE 6 - PROGRESS PAYMENTS

Based upon Applications for Payment submitted by the Contractor, Owner shall make progress payments on account of the contract sum to the Contractor as provided in the General and Supplementary Conditions of the Contract.

ARTICLE 7 - FINAL PAYMENT

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by Owner to the Contractor after Final Completion of the Work, provided the Work has then been completed, the Contract fully performed, a Final Inspection held, and a Final Certificate of Payment has been issued, all as set forth in the General and Supplementary Conditions of the Contract.

ARTICLE 8 - MISCELLANEOUS PROVISIONS

- 8.1 Terms used in this Agreement shall have the meanings designated in the Contract Documents.
- 8.2 The Payment and Performance Bonds given by the Contractor conditioned upon the faithful performance of the Contract; the payment of labor, material, equipment rental and public utility service claims; and the correction of defective installation or non-conforming materials and equipment are attached hereto and made a part hereof. However, no third party shall acquire any rights against Owner under the Contract Documents.
- 8.3 The Contractor agrees to abide and be bound by all applicable laws relating to and regulating wages to be paid and the hours and conditions of employment and relating to equal employment opportunity.

IN WITNESS WHEREOF, Scranton City and the Contractor have caused these presents to be executed on the day and year above written.

Owner

Attested:

By: _____

[Print name]

[Corporate Contractor]

[Name of Contractor]

(Print Name of Corporation)

Attest: _____
Signature of Secretary, Assistant
Secretary, Treasurer, Assistant
Treasurer or other authorized
representative**

By: _____
Signature of President, Vice
President or other authorized
representative*

(Print name of representative)

(Print name of representative)

(Print title of representative)

(Print title of representative)

* If a representative other than the President or a Vice President of the Corporation signs this Agreement on its behalf, then attach a corporate resolution or other appropriate proof, dated prior to or as of the date of the Proposal, evidencing authority to execute this Agreement on behalf of the Corporation.

** If a representative other than the Secretary, an Assistant Secretary, the Treasurer or an Assistant Treasurer attests to the signature of the corporate representative, then attach a corporate resolution or other appropriate proof, dated prior to or as of the date of the Proposal, evidencing authority to attest to the execution of this Agreement on behalf of the Corporation.

[Bidders are advised that when contracts are signed with noncorporate contractors, the form of signatures will be changed to the form similar to that completed by the Bidder on the Bid Form, in order to accommodate the form of business organization being used. Bidders which have adopted the Limited Liability Company or LLC form of organization must submit the Operating Agreement or similar documentation, establishing the authority of the representative who executes the Agreement and the authority of the representative who attests to the validity of the signature.]

END OF SECTION

002200 - QUALIFICATIONS STATEMENT

Name and address of Contractor-Bidder: _____

Submitted To: CITY OF SCRANTON

Regarding: CITY HALL SOUTH TOWER RESTORATION

1. Companies bidding on this Project must submit as set forth in the Instructions to Bidders this Statement of Bidder's Qualification to City of Scranton, hereinafter referred to as the "Owner."
2. Only Companies which are determined to be responsible contractors under applicable laws and the Contract Documents will be designated as qualified bidders at the time awards are made on the prime contracts offered on the Project.
3. The Instructions to Bidders and other Bidding Documents govern the Owner's consideration of this completed Statement of Bidder's Qualification.
4. All Bidders must complete this form and submit it with the Bid by answering all questions, and supplying the requested documents, using the spaces indicated (with additional pages if necessary) and attaching documents as required.

I. Capability

1. State your Company's name and the address of your Company's principal place of business (main office or headquarters).

2. State the categories of work for which your Company desires to be considered on the above Project.

3. State your Company's form of organization (sole proprietorship, partnership, corporation, limited liability company, etc.).

4. If your Company is a corporation, state:

- a. Date of incorporation;
- b. Place of incorporation;
- c. Names and titles of all officers.

Use additional pages if necessary.

- d. Provide the names of all your Company's subsidiaries, or parent organizations, and all affiliated organizations, giving the relationship of each to your Company.

Use additional pages if necessary.

5. If your Company is a limited liability company, state:

- a. Date of filing of the certificate of organization;
- b. State where filed;
- c. Names and titles of all officers, members and managers;

Use additional pages if necessary.

- d. Provide the names of all your Company's subsidiaries, or parent organizations, and all affiliated organizations, giving the relationship of each to your Company.

Use additional pages if necessary.

6. If your Company is a partnership (including a joint venture), state:

- a. Date of formation;
- b. Under which state's laws the partnership was formed;
- c. Whether partnership is general or limited;
- d. Names and home addresses of all partners (indicate any limited partners).

Use additional pages if necessary.

- e. Names of all organizations controlled by your Company or any of its partners.

Use additional pages if necessary.

7. If your Company is a sole proprietorship, or some form of organization other than a corporation, an LLC, or partnership, attach the operating agreement or other documentation governing the activities of the organization, and state:
- a. The type of organization and the date established;
 - b. Names and home addresses of each of the principals.

Use additional pages if necessary.

- c. Names of all organizations controlled by your Company or any of its principals.

Use additional pages if necessary.

8. Regarding ownership and control
- a. List all organizations and individuals who have a financial interest greater than 5% in your Company.

Use additional pages if necessary.

- b. Identify any other organization or individual who controls or substantially influences the bidding or operation of your Company.

Use additional pages if necessary.

9. Provide the numbers, categories and locations of all employees and officers.

Use additional pages if necessary.

10. Is your Company currently registered to do business in Pennsylvania?

If not, do you have a pending application for registration?

11. Does your Company hold all necessary licenses to perform the work for which you desire to be considered for this Project? If so, identify those licenses.

If not, identify all pending applications for those licenses:

12. Identify all your Company's offices located in Dauphin, Cumberland, Perry and Lebanon Counties.

13. Identify all your Company's offices located elsewhere in the Commonwealth of Pennsylvania.

Use additional pages if necessary.

14. How many years has your Company been in business as a Contractor or Subcontractor under your present business name?

15. List the years of experience your Company has in the construction of the type required for your contract:

a. as a prime contractor; and

b. as a subcontractor.

16. State:

a. The percentage of work normally completed using your own employees.

b. The percentage of work your Company intends to complete itself on this Project.

c. The nature of the work your Company will perform itself on this Project and the trades you will employ.

Use additional pages if necessary.

d. The equipment that you own or lease that is available for work on the Project.

Owned Equipment:

Leased Equipment:

Use additional pages if necessary.

e. The nature of the work which your Company would expect to subcontract on this Project.

Use additional pages if necessary.

f. The names and addresses of your Company's major suppliers for this Project

Use additional pages if necessary.

g. A list of all collective bargaining agreements to which you are bound.

Use additional pages if necessary.

17. List the three principal officers, administrators, managers and superintendents who will be assigned to the Project – identification of qualifications, with specific attention to years in present position, years with your Company, years of construction experience, and magnitude and type of work.

Use additional pages if necessary.

18. Identify any work your Company has performed for the Owner for each, identify the location of project, nature of contract (prime, sub, etc.), contract amount, kind of work, and nature of project.

Use additional pages if necessary.

19. List other similar projects that your Company has performed in Pennsylvania (up to a maximum of seven of the most recent projects) -- for each, identify the name and address of owner, location of project, nature of contract (prime, sub, etc.), contract amount, kind of work, and nature of project. You may refer to projects previously identified.

Use additional pages if necessary.

20. List all of the other projects that involve the **same type of construction** that your company has completed, up to a maximum of seven of the most recent projects -- and for each, identify the name and address of owner, location of project, nature of contract (prime, sub, etc.), contract amount, kind of work, and nature of project. **You may refer to projects previously identified.**

Use additional pages if necessary.

21. List any projects awarded but which your Company failed to complete or on which your Company was declared to be in default -- identify dates, name and address of owner, name and location of project and kind of work, and the reasons the project was not completed.

Use additional pages if necessary.

22. List any projects for which your Company received change orders, settlements or awards exceeding 10% of the original value of the contract in the last five (5) years.

II. Financial Integrity

1. Upon Owner's request, your company shall provide a complete copy of its most recent financial statement, with an explanation of whether it is a certified statement or a compilation, and including but not limited to the following items:
- a. Current assets (cash, joint venture accounts, accounts receivable, notes receivable, accrued interest on notes, deposits, materials and prepaid expenses), net fixed assets and other assets;
 - b. Current liabilities (accounts payable, notes payable, accrued interest on notes, provision for income taxes, advances received from owners, accrued salaries, accrued payroll taxes), other liabilities, and capital (capital stock, authorized and outstanding shares, par values, earned surplus);
 - c. Date of preparation, name and address of preparer;

- d. Identification and relationship to your Company of the organization whose financial statement is provided, if such organization is not the identical organization provided on page 1; and
- e. A statement as to whether the organization whose statement is provided will serve as your Company's guarantor under any contract for construction under this Project.

Financial information identified as such and enclosed in a separate sealed envelope will be treated as confidential.

If your company is an LLC with a corporate parent, or other subsidiary, and if your company intends to rely on the financial resources of the parent or other subsidiary, the Company must submit financial information for that entity as well at the same time.

The Company agrees to provide the financial statement: Yes No.

A negative response shall be conclusively treated as nonresponsive and shall disqualify the Bidder.

- 2. Provide your Company's net working capital (current assets over current liabilities) and date of determination.

Use additional pages if necessary.

- 3. Provide identification of all existing credit lines, with the name, address, and telephone number of the credit source, the total amounts of the lines, amounts drawn down, and amounts remaining.

Use additional pages if necessary.

- 4. List the names of your Company's secured creditors, and the property subject to their security interests.

Use additional pages if necessary.

5. List the names and addresses of your Company's three largest unsecured creditors.

6. Provide the name, address, and telephone number of your Company's surety for the payment and performance bonds, total bonding capacity, and available bonding capacity.

Use additional pages if necessary.

7. Has your Company, within the last three (3) years, been in a re-organization under Chapter 11 of the United States Bankruptcy Code, or in any other manner seeking an arrangement or debt adjustment with its creditors? If so, explain.

Use additional pages if necessary.

8. Identify any parent, subsidiary, or other company affiliated with your Company which has declared bankruptcy, or been placed into bankruptcy, in the last ten (10) years.

Use additional pages if necessary.

9. Have any of your officers or principal operating personnel been employed or associated with a company that has been in bankruptcy or ceased to operate at any time in the last ten (10) years? If so, state the person's name, title, and the name of the company involved.

Use additional pages if necessary.

10. List the name of the Project, the Owner, the Architect or Engineer, the total contract value, the date of completion, and the percentage of work completed with your own forces of the major construction projects which your Company **currently** has under construction, under contract and awarded. **You may refer to projects previously identified.**

Use additional pages if necessary.

11. List the name of the Project, the Owner, the Architect, the Engineer, the total contract value, the date of completion, and the percentage of work completed with your own forces of the major construction projects which your Company has **completed** in the last two (2) years. **You may refer to projects previously identified.**

12. List all unpaid obligations to local, state, or federal taxing authorities, including but not limited to income, withholding and unemployment taxes.

Use additional pages if necessary.

13. Identify all cancellations, terminations or rescissions of contracts of insurance or suretyship involving your Company within the last five (5) years.

Use additional pages if necessary.

(Name of Bidder)

By: _____

Title

Date: _____

SECTION 004122 - BID FORM, CONTRACT # 100 General Trades

Project Name: City Hall South Tower Restoration

Name of Bidder:	Phone:
Address:	
Email:	Fax:

In compliance with the Instructions to Bidders, the undersigned, hereby proposes to furnish all labor, supplies, materials and equipment to construct the Project, within the times specified, as per the Drawings and Specifications and other Contract Documents for the following amount:

BID #1:

_____ (Written Amount)

_____ Dollars (\$) _____ (Figures)

BID #2:

_____ (Written Amount)

_____ Dollars (\$) _____ (Figures)

BID #3:

(Written Amount)

Dollars (\$ _____)

(Figures)

BID #4:

(Written Amount)

Dollars (\$ _____)

(Figures)

Indicate BASE BID amount in both words and numerals. The amount indicated in numerals shall govern if a discrepancy exists.

ALLOWANCES:

- Reference Specification Section 01 21 00 "Allowances", for values that apply to Contract, and are included in the above BASE BID amount.

BID SECURITY:

- Attached hereto is a Bid Bond in the amount of ten percent (10%) of the Base Bid.

UNIT PRICES: (Furnish and Install)

PER LINEAL FOOT – 1 X 4 NON PRESSURE TREATED WOOD _____

PER LINEAL FOOT – 1 X 6 NON PRESSURE TREATED WOOD _____

PER LINEAL FOOT – 1 X 8 NON PRESSURE TREATED WOOD _____

PER LINEAL FOOT – 2 X 4 NON PRESSURE TREATED WOOD _____

PER LINEAL FOOT – 2 X 6 NON PRESSURE TREATED WOOD _____

PER LINEAL FOOT – 2 X 8 NON PRESSURE TREATED WOOD _____

PER SQ.FT. – 3/4" CDX NEW NON PRESSURE TREATED PLYWOOD _____

ALTERNATE: REFER TO DRAWING A1.1 FOR DESCRIPTION

- Indicate in the spaces provided below the amount to be added to the BASE BID if the Owner accepts an alternate as described in Division 01 Specification Section 012300 "Alternates".
- Include in the amount of the Alternates, all labor, materials, overhead and profit, modification of Work specified in Contract Documents, and additional work required by all trades that may be required for the ALTERNATE. Refer to Division 00 Specification Section "INSTRUCTIONS TO BIDDERS" and Division 01 Specification Section "Alternates".

DEDUCT to the BASE BID, the sum of:

Alt. #1

_____ Dollars (\$ _____)
(Written Amount) (Figures)

ADD/DEDUCT to the BASE BID, the sum of:

Alt. #2

_____ Dollars (\$ _____)
(Written Amount) (Figures)

ADD to the BASE BID, the sum of:

Alt. #3

_____ Dollars (\$ _____)
(Written Amount) (Figures)

PREPARATION OF BID:

- All blanks on the bid form shall be legibly executed in a non-erasable medium.
- Reference the Instructions to Bidders for additional requirements.

POST-BID SUBMITTALS:

- The three (3) apparent low bidders for each prime contract shall provide the following information within 72 hours of receipt of bids upon request:
 - Comparable Product / Equivalent Request Form
 - Proposed Subcontractors Form

ADDENDA:

- The receipt of the following Addenda to the Contract Documents is acknowledged:

Addendum No. _____, dated _____

Addendum No. _____, dated _____

ACCEPTANCE AND EXECUTION OF CONTRACT:

- The undersigned affirms and agrees that this Proposal is a firm one which remains in effect and will be irrevocable for the period of time permitted by the Instructions to Bidders and applicable law. When written notice of acceptance of the Proposal is mailed or delivered to the undersigned within the time period, or anytime thereafter should the Proposal not be withdrawn, the undersigned agrees to execute the Agreement with the Owner and provide the required post-award submittals.

BID PROPOSAL FORM / SIGNATURE PAGE

For Individual Bidder

Name of Bidder (Printed)

Witness

(Signature of Individual)

Trading and doing business as*
Business Address

Tax Identification Number

*If fictitious or trade name is employed in conduct of business, complete, by deletion as appropriate, the following statement:

Foregoing fictitious or trade name (has) (has not) been registered by the individual proprietorship under Pennsylvania Law.

BID PROPOSAL FORM / SIGNATURE PAGE

For Partnership Bidder

*

(Name of Partnership)

Name of General Partner (Printed)

By: _____
General Partner

Witness

Business Address

Tax Identification Number

The partners constituting the partnership herein named are:

Partner Address

Partner Address

Partner Address

Partner Address

[Add additional lines for the names and addresses of additional Partners, if there are more than four Partners in the Partnership, by attaching an additional page or pages to this Bid.]

*If fictitious or trade name is employed by the partnership in conduct of its business, insert name here:

Next, complete, by deletion as appropriate, the following statement:

Foregoing fictitious or trade name (has) (has not) been registered by the partnership under Pennsylvania Law.

BID PROPOSAL FORM / SIGNATURE PAGE

For Corporate Bidder

[Name of Contractor]

(Print Name of Corporation)

Attest: _____

By: _____

Signature of Secretary, Assistant
Secretary, Treasurer, Assistant
Treasurer or other authorized
representative**

Signature of President, Vice
President or other authorized
representative*

(Print name of representative)

(Print name of representative)

Tax Identification Number _____

* If a representative other than the President or a Vice President of the Corporation signs this Bid on its behalf, then attach a valid corporate resolution or other appropriate proof, dated prior to or as of the date of the Bid, evidencing authority to execute this Bid on behalf of the Corporation.

** If a representative other than the Secretary, an Assistant Secretary, the Treasurer or an Assistant Treasurer attests to the signature of the corporate representative, then attach a valid corporate resolution or other appropriate proof, dated prior to or as of the date of the Bid, evidencing authority to attest to the execution of this Bid on behalf of the Corporation.

(1) Complete the following statement:

The Corporation has been organized and is existing under laws of the State/Commonwealth
of _____

(2) If Corporation has been organized under laws of a State other than those of the Commonwealth of Pennsylvania, complete, by deletion as appropriate, the following statement:

The Corporation (has) (has not) been granted a certificate of authority to do business in the Commonwealth of Pennsylvania under applicable laws.

(3) If Corporation has been organized under laws other than those of the Commonwealth of Pennsylvania and has NOT been granted a certificate of authority, complete, by deletion as appropriate, the following statement:

The Corporation (has) (has not) applied for a certificate of authority to do business in the Commonwealth of Pennsylvania and (has) (has not) attached a copy of the pending application to this Bid.

City Hall South Tower Restoration

004122-7

BID FORM CONTRACT
#100 GENERAL TRADES

BID PROPOSAL FORM / SIGNATURE PAGE

For Limited Liability Company (LLC) Bidder

(Print Name of Limited Liability Company)

Attest: _____
Signature of an authorized representative*

By: _____
Signature of an authorized representative**

Tax Identification Number _____

* The individual attesting verifies and represents that the person whose signature is affixed to this Bid on behalf of the Limited Liability Company (LLC) is duly authorized in accordance with the representations hereafter set forth.

** Check the box which applies to this Bid:

___ The Certificate of Organization provides that LLC is to be managed by managers, and this Bid has been executed by a Manager fully authorized by the Certificate, by the Operating Agreement and by Resolutions of the LLC. Copies of the relevant documents are provided with the Bid or can be provided upon request within three (3) working days.

___ The Certificate of Organization does not provide that LLC is to be managed by managers, and this Bid has been executed by a Member fully authorized by the Certificate, by the Operating Agreement and by Resolutions of the LLC. Copies of the relevant documents are provided with the Bid or can be provided upon request within three (3) working days.

___ This Bid has been executed by a representative of the LLC who is not a Manager or a Member of the LLC, and instead who holds the office of _____ (insert title), and the execution of this Bid is fully authorized by the Certificate, by the Operating Agreement and by Resolutions of the LLC. Copies of the relevant documents are provided with the Bid or can be provided upon request within three (3) working days.

The Bidder and the individuals signing and attesting to the execution of this document further represent that (1) execution of the Bid is carrying on business in the usual way; (2) the LLC authorizes the execution of this Bid even if execution and submission of this Bid is not carrying on business in the usual way for the LLC; and (3) to the best of the individuals' information and belief, the Owner has no knowledge of the Member's or the Manager's lack of actual authority, or of any applicable and relevant restriction on his or her authority.

Complete the following statement: The LLC has been organized and is existing under laws of the State/Commonwealth of _____.

If the LLC has been organized under laws of a State other than those of the Commonwealth of Pennsylvania, complete, by deletion as appropriate, the following statement: The LLC (has) (has not) been granted a certificate of authority to do business in the Commonwealth of Pennsylvania under applicable laws.

If the LLC has been organized under laws other than those of the Commonwealth of Pennsylvania and has NOT been granted a certificate of authority, complete, by deletion as appropriate, the following statement: The LLC (has) (has not) applied for a certificate of authority to do business in the

Commonwealth of Pennsylvania and (has) (has not) attached a copy of the pending application to this Bid .

City Hall South Tower Restoration

004122-9

BID FORM CONTRACT
#100 GENERAL TRADES

CONTRACTOR PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That _____
(Contractor Name and Address)

_____ as Principal, hereinafter called "Principal," and

(Legal Title of Surety)

as Surety, hereinafter called "Surety," are held and firmly bound unto the City of Scranton, Commonwealth of Pennsylvania, its successor(s), grantee(s) or assignee(s), as the owner Obligee ("the Obligee"), in the amount of one hundred percent (100%) of the Contract Sum of _____ Dollars (\$ _____), for the payment whereof Principal and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Obligee to pay for performance of the Contract, and firmly by these presents.

WITNESSETH THAT:

WHEREAS, Principal has, by written agreement dated _____ entered into a Contract with Obligee for the construction of renovations to Restoration of City Hall South Tower for the Obligee, located in _____, _____ County, Pennsylvania, in accordance with drawings and specifications prepared by Highland Associates, Ltd. Architecture Engineering Interior Design., located in _____, _____, which Contract is by reference made a part hereof, and is hereinafter referred to as "the Contract;"

WHEREAS, the Obligee is a "contracting body" under provisions of Act No. 385 of the General Assembly of the Commonwealth of Pennsylvania, approved by the Governor on December 20, 1967, and known as and cited as the "Public Works Contractors' Bond Law of 1967" (the "Act");

WHEREAS, the Act, in Section 3.1(a), requires that, before an award shall be made to the Principal by the Oblige, the Principal shall furnish this Bond to the Oblige, with this Bond to become binding upon the award of a Contract to the Principal by the Oblige in accordance with the Contract; and

WHEREAS, it is also a condition of the Contract that this Bond shall be furnished by the Principal to the Oblige.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal shall well and faithfully do and perform the things agreed by it to be done and performed according to the terms of said Contract, including all changes and amendments thereto, which is hereby incorporated as part of this Bond as if fully set forth herein, and shall indemnify and save harmless the Oblige and all of its officers, agents and employers from any expense incurred through the failure of the Principal to complete the work as specified and for any and all sums due the Oblige under the Contract by the Principal or its subcontractors, then this Bond shall be void; otherwise, this Bond shall remain in full force and effect.

The Principal and Surety agree that any alterations, changes and/or additions to the Contract, and/or any alterations, changes and/or additions to the work to be performed under the Contract, and/or any giving by the Oblige of any extensions of time for the performance of the project work in accordance with the Contract, and or any other act of forbearance of either the Principal or the Oblige toward the other with respect to the Contract, and/or the reduction of any percentage to be retained by the Oblige as permitted by the Contract, shall not release, in any manner whatsoever, the Principal and the Surety, or either of them, or their heirs, executors, administrators, successors and assigns, from liability and obligations under this Bond; and the Surety, for value received, does waive notice of any such alterations, changes, additions, extensions of time, acts of forbearance and/or reduction of retained percentage.

Whenever Principal shall be, and declared by Obligees to be in default under the Contract, the Obligees having performed Obligees's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- 1) Complete the Contract in accordance with its terms and conditions, or
- 2) Obtain a bid or bids for submission to Obligees for completing the Contract in accordance with its terms and conditions, and upon determination by Obligees and Surety of the lowest responsive bidder, arrange for a contract for completion between such bidder and Obligees, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term, "balance of the contract price", as used in this paragraph, shall mean the total amount payable by Obligees to Principal under the Contract and any amendments thereto, less the amount properly paid by Obligees to Principal.

If the Surety does not promptly remedy the default or proceed with reasonable promptness to perform its obligations under the Bond, the Surety shall be deemed to be in default on this Bond fifteen (15) days after receipt of written notice from the Obligees to the Surety demanding that the Surety perform its obligations under this Bond, and the Obligees shall be entitled to enforce any remedy available to the Obligees.

No action upon this Bond shall be commenced after the expiration of one (1) year from the date on which the Principal is declared to be in default by the Obligees, or within one (1) year after the Surety fails to perform its obligations under the Bond, whichever occurs later.

No right of action shall accrue on this Bond to any person or entity other than the Obligees or its heirs, executors, administrators, or successors.

Every action upon this Bond shall be instituted either in the Court of Common Pleas for the county where the project under the Contract is to be performed, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

This Bond is executed and delivered under and subject to the Act to which reference hereby is made.

IN WITNESS WHEREOF, the Principal and the Surety cause this Bond to be signed and sealed
this _____ day of _____, 20 ____.

[Select the applicable signature pages from among those that follow]

City Hall South Tower Renovations

000610-4

CONTRACTOR PERFORMANCE BOND

PRINCIPAL:

When the Principal is an Individual Proprietor:

WITNESS:

*Signature of Witness

*By: _____ (SEAL)
Signature of Proprietor

Print name of Proprietor

CORPORATE SURETY

Witness or Attest:

**Name of Corporate Surety

(CORPORATE SEAL)**

**By: _____
Title

GENERAL INSTRUCTIONS FOR PRINCIPAL

*Sign by proprietor and witness.

GENERAL INSTRUCTIONS FOR ATTORNEY-IN-FACT CERTIFICATION

**Indicate Surety Company, sign by attorney-in-fact, obtain witness signature, and affix Surety company's seal. Attach Power of Attorney, with embossed seal, to this page, dated as of the same date as the bond, evidencing the authority of the Attorney-in-Fact to act on behalf of the Corporation.

The attorney-in-fact by executing this Performance Bond certifies that he/she is licensed with the company named as Surety for this bond by the Pennsylvania Insurance Department and that to the best of his/her knowledge the said Surety is licensed with the Pennsylvania Insurance Department.

When the Principal is a Partnership:

Print Name of Partnership

WITNESS:

*By: _____ (SEAL)
Signature of General Partner

CORPORATE SURETY

Witness or Attest:

**Name of Corporate Surety

(CORPORATE SEAL)**

**By: _____
Title

GENERAL INSTRUCTIONS FOR PRINCIPAL

*Please sign where indicated. Sign by a General Partner and witness signature.

GENERAL INSTRUCTIONS FOR ATTORNEY-IN-FACT CERTIFICATION

**Indicate Surety Company, sign by attorney-in-fact, obtain witness signature, and affix Surety company's seal. Attach Power of Attorney, with embossed seal, to this page, dated as of the same date as the bond, evidencing the authority of the Attorney-in-Fact to act on behalf of the Corporation.

The attorney-in-fact by executing this Performance Bond certifies that he/she is licensed with the company named as Surety for this bond by the Pennsylvania Insurance Department and that to the best of his/her knowledge the said Surety is licensed with the Pennsylvania Insurance Department.

When the Principal is a Corporation:

Print Name of Corporation

ATTEST:

Secretary/Assistant Secretary/
Treasurer/Assistant Treasurer
or other Authorized Representative

*By: _____

President/Vice President or other
Authorized Representative*

Print Name of Corporate Representative

(CORPORATE SEAL)

CORPORATE SURETY

**Name of Corporate Surety

Witness or Attest:

**By: _____

(CORPORATE SEAL)**

Title

GENERAL INSTRUCTIONS FOR PRINCIPAL

*Please sign where indicated. Sign by President or Vice-President and attest by Secretary, Assistant Secretary, Treasurer, or Assistant Treasurer. Affix Seal.

GENERAL INSTRUCTIONS FOR ATTORNEY-IN-FACT CERTIFICATION

**Indicate Surety Company, sign by attorney-in-fact, obtain witness signature, and affix Surety company's seal. Attach Power of Attorney, with embossed seal, to this page, dated as of the same date as the bond, evidencing the authority of the Attorney-in-Fact to act on behalf of the Corporation.

The attorney-in-fact by executing this Performance Bond certifies that he/she is licensed with the company named as Surety for this bond by the Pennsylvania Insurance Department and that to the best of his/her knowledge the said Surety is licensed with the Pennsylvania Insurance Department.

When the Principal is a Limited Liability Company

(Print Name of Limited Liability Company)

Attest: _____
Signature of an Authorized Representative*

*By: _____
Signature of an Authorized Representative*

CORPORATE SURETY

**Name of Corporate Surety

Witness or Attest:

(CORPORATE SEAL)**

**By: _____
Title

GENERAL INSTRUCTIONS FOR PRINCIPAL

*Please sign where indicated. Sign and attest by Manager, Member or other Authorized Representative. The individual attesting verifies and represents that the person whose signature is affixed to this Bond on behalf of the Limited Liability Company (LLC) is duly authorized in accordance with the representations hereafter set forth.

Check the box which applies to this Bond:

___ The Certificate of Organization provides that LLC is to be managed by managers, and this Bond has been executed by a Manager fully authorized by the Certificate, by the Operating Agreement and by Resolutions of the LLC. Copies of the relevant documents are provided with the Bond or can be provided upon request within three (3) working days.

___ The Certificate of Organization does not provide that LLC is to be managed by managers, and this Bond has been executed by a Member fully authorized by the Certificate, by the Operating Agreement and by Resolutions of the LLC. Copies of the relevant documents are provided with the Bond or can be provided upon request within three (3) working days.

___ This Bond has been executed by a representative of the LLC who is not a manager or a member of the LLC, and instead who holds the office of _____ (insert title), and the execution of this Bond is fully authorized by the Certificate, by the Operating Agreement and by Resolutions of the LLC. Copies of the relevant documents are provided with the Bond or can be provided upon request within three (3) working days.

The individuals signing and attesting to the execution of this document further represent that (1) execution of the Bond is carrying on business in the usual way; (2) the LLC authorizes the execution of this Bond even if execution and submission of this Bond is not carrying on business in the usual way for the LLC; and (3) to the best of the individuals' information and belief, the Owner has no knowledge of the Member's or the Manager's lack of actual authority, or of any applicable and relevant restriction on his or her authority.

GENERAL INSTRUCTIONS FOR ATTORNEY-IN-FACT CERTIFICATION

Indicate Surety Company, sign by attorney-in-fact, obtain witness signature, and affix Surety company's seal. Attach Power of Attorney, with embossed seal, to this page, dated as of the same date as the bond, evidencing the authority of the Attorney-in-Fact to act on behalf of the Limited Liability Company.

The attorney-in-fact by executing this Performance Bond certifies that he/she is licensed with the company named as Surety for this bond by the Pennsylvania Insurance Department and that to the best of his/her knowledge the said Surety is licensed with the Pennsylvania Insurance Department.

CONTRACTOR LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS:

That _____
(Contractor Name and Address)

_____ as Principal, hereinafter called, "Principal," and

(Legal Title of Surety)

as Surety, hereinafter called "Surety," are held and firmly bound unto the City of Scranton, Commonwealth of Pennsylvania, its successor(s), grantee(s) or assignee(s), as the owner Obligee ("the Obligee"), for use and benefit of Claimants as herein below defined, in the amount of one hundred percent (100%) of the Contract Sum of _____ Dollars (\$ _____), for the payment whereof Principal and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Obligee to pay for performance of the Contract, and firmly by these presents.

WITNESSETH THAT:

WHEREAS, Principal has, by written agreement dated _____ entered into a Contract with Obligee for the construction of Restoration of City Hall South Tower for the Obligee, located in _____, _____ County, Pennsylvania, in accordance with drawings and specifications prepared by Highland Associates, Ltd. Architecture Engineering Interior Design, located in _____, _____, which Contract is by reference made a part hereof, and is hereinafter referred to as "the Contract;"

WHEREAS, the Obligee is a "contracting body" under provisions of Act No. 385 of the General Assembly of the Commonwealth of Pennsylvania, approved by the Governor on December 20, 1967, and known as and cited as the "Public Works Contractors' Bond Law of 1967" (the "Act");

City Hall South Tower Restoration

006011-1

CONTRACTOR LABOR & MATERIALS
PAYMENT BOND

WHEREAS, the Act, in Section 3.1(a), requires that, before an award shall be made to the Principal by the Oblige, the Principal shall furnish this Bond to the Oblige, with this Bond to become binding upon the award of a Contract to the Principal by the Oblige in accordance with the Contract; and

WHEREAS, it is also a condition of the Contract that this Bond shall be furnished by the Principal to the Oblige.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal and any subcontractor of the Principal to whom any portion of the work under the Contract shall be subcontracted, and if all assignees of the Principal and of any such subcontractor, shall promptly make payment to all Claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, including any amendment, extension or addition to the Contract, then this obligation shall be void; otherwise, this Bond shall remain in full force and effect.

This Bond, as provided by the Act, shall be solely for the protection of Claimants supplying labor or materials to the Principal or to any subcontractors of the Principal of the first, second, or third tiers providing labor, and to any subcontractors of the first and second tier only for materials, in the prosecution of the work covered by the Contract, including any amendments, extensions or additions to the Contract, and is conditioned for the prompt payment of all such materials furnished and labor supplied or performed in the prosecution of the work. Claimant for itself, its Surety, its Subcontractors, and all successors and assigns, waives all rights of action against the Oblige and its consultants related to payment on the Contract.

The term "Claimant," when used herein and as required by the Act, shall include entities furnishing materials and labor for the project, and public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site of the work covered by the Contract. As required by the Act, the provisions of this Bond shall be applicable whether

or not the material furnished or labor performed enters into and becomes a component part of the public building, public work or public improvement contemplated by the Contract.

As required and provided by the Act, the Principal and the Surety agree that any Claimant, who has performed labor or furnished material in the prosecution of the work in accordance with the Contract, including any amendments, extensions or additions to the Contract, and who has not been paid therefor, in full, before the expiration of ninety (90) days after the day on which Claimant performed the last of such labor or furnished the last of such materials for which payment is claimed, may institute an action upon this Bond, in the name of the Claimant, in assumpsit, to recover any amount due the Claimant for such labor or material, and may prosecute such action to final judgment and may have execution upon the judgment, provided, however that:

- (a) any Claimant who has a direct contractual relationship with any subcontractor of the Principal, but has no contractual relationship, express or implied, with such Principal may bring an action on the payment bond only if such Claimant first shall have given written notice, served in the manner provided in the Act, to the Principal within ninety (90) days from the date upon which such Claimant performed the last of the labor or furnished the last of the materials for which payment is claimed, stating with substantial accuracy, the amount claimed and the name of the person for whom the work was performed or to whom the material was furnished, provided however that in the event of the bankruptcy of the Principal, this requirement of notice shall be excused and notice may be given instead directly to the Surety;
- (b) no action upon this Bond shall be commenced after the expiration of one (1) year from the day upon which the last of the labor was performed or material was supplied, for the payment of which such action is instituted by the Claimant;
- (c) every action upon this Bond shall be instituted either in the Court of Common Pleas for the county where the project under the Contract is to be performed, or in the United State District Court for the district in which the project, or any part thereof, is situated, and not elsewhere; and
- (d) the Obligee shall not be liable for the payment of any interest, costs, expenses or attorneys' fees of any such suit.

This Bond is executed and delivered under and subject to the Act to which reference hereby is made.

City Hall South Tower Restoration

006011-3

CONTRACTOR LABOR & MATERIALS
PAYMENT BOND

The Principal and Surety agree that any alterations, changes and/or additions to the Contract, and/or any alterations, changes and/or additions to the work to be performed under the Contract, and/or any giving by the Obligee of any extensions of time for the performance of the project work in accordance with the Contract, and or any other act of forbearance of either the Principal or the Obligee toward the other with respect to the Contract, and/or the reduction of any percentage to be retained by the Obligee as permitted by the Contract, shall not release, in any manner whatsoever, the Principal and the Surety, or either of them, or their heirs, executors, administrators, successors and assigns, from liability and obligations under this Bond; and the Surety, for value received, does waive notice of any such alterations, changes, additions, extensions of time, acts of forbearance and/or reduction of retained percentage.

IN WITNESS WHEREOF, the Principal and the Surety cause this Bond to be signed and sealed this _____ day of _____, 20_____.

[Select the applicable signature pages from among those that follow]

City Hall South Tower Restoration

006011-4

CONTRACTOR LABOR & MATERIALS
PAYMENT BOND

PRINCIPAL:

When the Principal is an Individual Proprietor:

WITNESS:

*Signature of Witness

*By: _____ (SEAL)
Signature of Proprietor

Print name of Proprietor

CORPORATE SURETY

Witness or Attest:

(CORPORATE SEAL)**

**Name of Corporate Surety

**By: _____
Title

GENERAL INSTRUCTIONS FOR PRINCIPAL

*Sign by proprietor and witness.

GENERAL INSTRUCTIONS FOR ATTORNEY-IN-FACT CERTIFICATION

**Indicate Surety Company, sign by attorney-in-fact, obtain witness signature, and affix Surety company's seal. Attach Power of Attorney, with embossed seal, to this page, dated as of the same date as the bond, evidencing the authority of the Attorney-in-Fact to act on behalf of the Corporation.

The attorney-in-fact by executing this Performance Bond certifies that he/she is licensed with the company named as Surety for this bond by the Pennsylvania Insurance Department and that to the best of his/her knowledge the said Surety is licensed with the Pennsylvania Insurance Department.

City Hall South Tower Restoration

006011-5

CONTRACTOR LABOR & MATERIALS
PAYMENT BOND

When the Principal is a Partnership:

Print Name of Partnership

WITNESS:

*By: _____ (SEAL)
Signature of General Partner

CORPORATE SURETY

**Name of Corporate Surety

Witness or Attest:

(CORPORATE SEAL)**

**By: _____
Title

GENERAL INSTRUCTIONS FOR PRINCIPAL

*Please sign where indicated. Sign by a General Partner and witness signature.

GENERAL INSTRUCTIONS FOR ATTORNEY-IN-FACT CERTIFICATION

**Indicate Surety Company, sign by attorney-in-fact, obtain witness signature, and affix Surety company's seal. Attach Power of Attorney, with embossed seal, to this page, dated as of the same date as the bond, evidencing the authority of the Attorney-in-Fact to act on behalf of the Corporation.

The attorney-in-fact by executing this Performance Bond certifies that he/she is licensed with the company named as Surety for this bond by the Pennsylvania Insurance Department and that to the best of his/her knowledge the said Surety is licensed with the Pennsylvania Insurance Department.

When the Principal is a Corporation:

Print Name of Corporation

ATTEST:

*By: _____

Secretary/Assistant Secretary/
Treasurer/Assistant Treasurer
or other Authorized Representative

President/Vice President or other
Authorized Representative*

Print Name of Corporate Representative

(CORPORATE SEAL)

CORPORATE SURETY

**Name of Corporate Surety

Witness or Attest:

**By: _____
Title

(CORPORATE SEAL)**

GENERAL INSTRUCTIONS FOR PRINCIPAL

*Please sign where indicated. Sign by President or Vice-President and attest by Secretary, Assistant Secretary, Treasurer, or Assistant Treasurer. Affix Seal.

GENERAL INSTRUCTIONS FOR ATTORNEY-IN-FACT CERTIFICATION

**Indicate Surety Company, sign by attorney-in-fact, obtain witness signature, and affix Surety company's seal. Attach Power of Attorney, with embossed seal, to this page, dated as of the same date as the bond, evidencing the authority of the Attorney-in-Fact to act on behalf of the Corporation.

The attorney-in-fact by executing this Performance Bond certifies that he/she is licensed with the company named as Surety for this bond by the Pennsylvania Insurance Department and that to the best of his/her knowledge the said Surety is licensed with the Pennsylvania Insurance Department.

When the Principal is a Limited Liability Company

(Print Name of Limited Liability Company)

Attest: _____
Signature of an Authorized Representative*

*By: _____
Signature of an Authorized Representative*

CORPORATE SURETY

**Name of Corporate Surety

Witness or Attest:

(CORPORATE SEAL)**

**By: _____
Title

GENERAL INSTRUCTIONS FOR PRINCIPAL

*Please sign where indicated. Sign and attest by Manager, Member or other Authorized Representative. The individual attesting verifies and represents that the person whose signature is affixed to this Bond on behalf of the Limited Liability Company (LLC) is duly authorized in accordance with the representations hereafter set forth.

Check the box which applies to this Bond:

___ The Certificate of Organization provides that LLC is to be managed by managers, and this Bond has been executed by a Manager fully authorized by the Certificate, by the Operating Agreement and by Resolutions of the LLC. Copies of the relevant documents are provided with the Bond or can be provided upon request within three (3) working days.

___ The Certificate of Organization does not provide that LLC is to be managed by managers, and this Bond has been executed by a Member fully authorized by the Certificate, by the Operating Agreement and by Resolutions of the LLC. Copies of the relevant documents are provided with the Bond or can be provided upon request within three (3) working days.

___ This Bond has been executed by a representative of the LLC who is not a manager or a member of the LLC, and instead who holds the office of _____ (insert title), and the execution of this Bond is fully authorized by the Certificate, by the Operating Agreement and by Resolutions of the LLC. Copies of the relevant documents are provided with the Bond or can be provided upon request within three (3) working days.

The individuals signing and attesting to the execution of this document further represent that (1) execution of the Bond is carrying on business in the usual way; (2) the LLC authorizes the execution of this Bond even if execution and submission of this Bond is not carrying on business in the usual way for the LLC; and (3) to the best of the individuals' information and belief, the Owner has no knowledge of the Member's or the Manager's lack of actual authority, or of any applicable and relevant restriction on his or her authority.

GENERAL INSTRUCTIONS FOR ATTORNEY-IN-FACT CERTIFICATION

Indicate Surety Company, sign by attorney-in-fact, obtain witness signature, and affix Surety company's seal. Attach Power of Attorney, with embossed seal, to this page, dated as of the same date as the bond, evidencing the authority of the Attorney-in-Fact to act on behalf of the Limited Liability Company.

The attorney-in-fact by executing this Performance Bond certifies that he/she is licensed with the company named as Surety for this bond by the Pennsylvania Insurance Department and that to the best of his/her knowledge the said Surety is licensed with the Pennsylvania Insurance Department.

City Hall South Tower Restoration

006011-9

CONTRACTOR LABOR & MATERIALS
PAYMENT BOND

SECTION 008020 – SUPPLEMENTARY CONDITIONS

The following supplements modify, change, delete from or add to the “General Conditions of the Contract for Construction” AIA Document A201, 2007 Edition. Where any Article of General Conditions is modified or any Section, Subsection or clause thereof is modified or deleted by these Supplementary Conditions, the unaltered provisions of the Article, Section, Subsection or clause shall remain in effect. References to a Section number (for example, 1.1 or 1.1.2) are to be understood generally as including all Subsections within the Section (for example, 1.1.2 and 1.1.2.1, respectively). References to a Subsection are to be understood as including the Section.

ARTICLE 1 - GENERAL PROVISIONS

Section 1.1 BASIC DEFINITIONS

Delete the first sentence of Section 1.1.1 in its entirety and, in lieu thereof, substitute the following:

- 1.1.1 *[Substitute:]* Owner has issued Bidding Documents and Contract Documents for the Project. It is hereby agreed and understood that all Contract Documents are being provided by Owner and that nothing included therein shall constitute a warranty or representation by Owner’s Representative, Architect, their consultants, employees or representatives.
- 1.1.1.1 *[Add:]* The Bidding Documents consist of the documents identified below:
- a. All Addenda issued prior to the Bid
 - b. Instructions to Bidders
 - c. Attachments to the Instructions
 - d. Bid Forms for Construction Contracts – General, Plumbing, HVAC, and Electrical
 - e. Advertisement for Bid
 - f. Form of Contractor’s Qualifications Statement
 - g. Form of Non-Collusion Affidavit
 - h. Bid Bond or Bid Security Form
 - i. Prevailing Wage Pre-determination
 - j. Form of Performance Bond
 - k. Form of Payment Bond
 - l. All other Contract Documents
- 1.1.2 *[Add:]* The Contract Documents consist of:
- a. Amendments, Construction Change Directives and Change Orders issued subsequently to the execution of the Agreement
 - b. Agreement between Owner and Contractor
 - c. Supplementary General Conditions of Contract
 - d. Conditions of the Contract (AIA Document A201 – 2007)
 - e. General Requirements (Division 1)

- f. Drawings and Specifications for all Contracts
- g. Bid Forms (completed)
- h. Performance Bond (completed)
- i. Payment Bond (completed)
- j. Contractor's Qualifications Statement (completed)
- k. Certificates of authorization to do business (out-of-state contractors)
- l. Contractor's Affidavit of Payment of Debts and Claims (AIA Document G706)
- m. Contractor's Affidavit of Release of Liens (AIA Document G706A)
- n. Substitution Request Form for Post-Bid Substitutions [recheck this]
- o. Insurance certificates
- p. Notice or Notices to Proceed
- q. Other forms and certifications
- r. All other Bidding Documents

Delete the last sentence of Section 1.1.1 in its entirety.

Delete the word "contractual" from the fourth sentence before the word "relationship" in Section 1.1.2 and add the following phrase as follows:

1.1.2 [Add:] "contractual or otherwise" after the word "kind".

Delete the last sentence of Section 1.1.2 in its entirety.

Add to the following new Subsections 1.1.2.1 through 1.1.2.4:

- 1.1.2.1 [Add:] The invalidity of any covenant, restriction, condition, limitation or any other part or provision of the Contract Documents shall not impair or affect in any manner the validity, enforceability or effect of the remainder of the Contract Documents.
- 1.1.2.2 [Add:] It is hereby agreed and understood that all Contract Documents are being provided by Owner, and that nothing included therein shall constitute a warranty or representation by Owner's Representative, Architect or their consultants, employees or representatives.
- 1.1.2.3 [Add:] The Agreement between Owner and Contractor, the Contract Documents or the information supplied to Contractor in connection with this Project, including any deficiency, inconsistency or misrepresentation therein, shall not create any cause of action in favor of or against any third party, including but not limited to Owner's Representative, Architect, another architect or engineer, or a design professional serving in any capacity, or any of their consultants, employees or representatives, whether such action may be for breach of contract, breach of warranty, negligence, misrepresentation or other tort, and specifically including but not limited to those claims otherwise permitted by the Pennsylvania Supreme Court's decision in the case of Bilt-Rite Contractors, Inc. v. Architectural Studio, 866 A.2d 270 (Pa. 2005). Contractor agrees that any such rights are waived.
- 1.1.2.4 [Add:] Except when Contractor is required to pursue a claim directly against another Contractor as directed elsewhere in the Contract Documents or its own subcontractors, Contractor agrees that any and all claims, disputes or legal actions filed or pursued by

Contractor in connection with this contract, the Contract Documents or the Project, shall be filed or pursued only against the named Owner of the Project under the claims procedures set forth in this Agreement, that any claims or causes of action are hereby waived, and that no claims or legal actions may be filed or pursued against Owner's administrators, officials, directors, their employees, representatives, or Owner's Representative, Architect, another architect or engineer, or a design professional serving in any capacity, or any of their consultants, or their employees or representatives, including but not limited to those claims otherwise permitted by the Pennsylvania Supreme Court's decision in the case of Bilt-Rite Contractors, Inc. v. Architectural Studio, 866 A.2d 270 (Pa. 2005). Contractor agrees that this Subsection shall survive termination of this Contract. Contractor also agrees that this Subsection shall be binding whether or not Contractor claims a breach of this Contract, prior to, during, or after its execution, and that this Subsection shall apply to any and all claims including breach of contract, breach of warranty, negligence, misrepresentation or other tort, or otherwise.

Add the following language to the end of the first sentence of Section 1.1.3:

- 1.1.3 [Add:] . . . including any Subcontractor's labor, materials, equipment, and services, and those of material suppliers or any other entity for whom Contractor is responsible and whether on or off the site of the Project.

Add the following to the end of Section 1.1.5:

- 1.1.5 [Add:] . . . and shop drawings.

Delete Section 1.1.8 in its entirety and, in lieu thereof, substitute the following new Sections 1.1.8 through 1.1.15 as follows:

- 1.1.8 [Add:] The term, "Lead Contractor" means Contractor designated by Owner to schedule and coordinate the Project, and resolve conflicts in the coordination, scheduling, durations, sequences, and means and methods ("coordination decisions") of or for the Work by making final construction decisions when the Prime Contractors directly involved cannot resolve the dispute between or among themselves. The General Contractor is designated as Lead Contractor for the Project.
- 1.1.9 [Add:] The term "product" includes materials, systems and equipment.
- 1.1.10 [Add:] The term "provide" includes furnishing and installing a product, complete in place, operating, tested and approved.
- 1.1.11 [Add:] The term "building code" and the term "code" refer to regulations of governmental agencies having jurisdiction.
- 1.1.12 [Add:] The terms "approved", "required" and "as directed" refer to and indicate the work or materials that may be approved, required or directed by Architect acting as the agent of Owner.
- 1.1.13 [Add:] The term "similar" means in its general sense and not necessarily identical.

- 1.1.14 [Add:] The terms “shown”, “indicated”, “detailed”, “noted”, “scheduled” and terms of similar import refer to requirements contained in the Contract Documents.
- 1.1.15 [Add:] The term, “Subcontractor” includes subcontractors to the Prime Contractors, and sub-subcontractors at all levels and all material and equipment suppliers.

Section 1.2 CORRELATIONS AND INTENT OF THE CONTRACT DOCUMENTS

Add new Sections 1.2.4 through 1.2.7 as follows:

- 1.2.4 [Add:] Computed dimensions shall take precedence over scale dimensions, and large scale drawings shall take precedence over small scale drawings.
- 1.2.5 [Add:] Anything shown on the Drawings and not mentioned in the Specifications or mentioned in the Specifications and not shown on the Drawings shall have the same effect as if shown or mentioned respectively in both. Any Work shown on one Drawing shall be construed to be shown in all Drawings, and Contractor shall coordinate the Work and Drawings to conform to the requirements of the Contract Documents.
- 1.2.6 [Add:] In the event of an inconsistency between the Specifications and Drawings, the interpretation as determined by Architect shall prevail; as between large scale drawings and small scale drawings, the large scale shall take precedence. Specifications having greater detail or specificity, take priority over specifications of lesser detail or specificity, and detail takes precedence over General Drawings.
- 1.2.7 [Add:] If any portion of the Contract Documents shall be in conflict with any other portion after the application of the rules of interpretation set forth in this Section 1.2, the various documents comprising the Contract Documents as set forth in Section 1.1.2 of these Supplementary Conditions shall govern in the order and sequence listed therein.

Section 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

Add to Section 1.5.2 as follows:

- 1.5.2 [Add:] Reproduction of the material herein or substantial use without written permission of Highland Associates violates the copyright laws of the United States.

Section 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

Add to Section 1.6 as follows:

- 1.6.2 [Add:] or as otherwise may be agreed.

ARTICLE 2 - OWNER

Section 2.1 GENERAL

Change the first part of the first sentence of Section 2.1.1 the identify Owner as follows:

2.1.1 *[Change:]*

 Owner
 City of Scranton
 c/o Office of Business Administration
 340 North Washington Ave.
 Scranton, PA 18503

Delete the second sentence of Section 2.1.1 and substitute, in lieu thereof, the following:

2.1.1 *[Substitute:]* Owner's Representative for the Project will be identified by Owner in writing following the award of Bids. Owner's Representative has the authority provided by appropriate action of the City Council and as set forth herein. The identity of Owner's Representative may be changed by written notice.

Delete Section 2.1.2 in its entirety.

Section 2.2 INFORMATION AND SERVICES REQUIRED OF OWNER

Delete Section 2.2.1 in its entirety.

Delete Section 2.2.2 in its entirety and, in lieu thereof, substitute the following:

2.2.2 *[Substitute:]* Owner shall pay for the General Building Permit. If the funds to pay the General Building Permit are advanced by the General Contractor, the cost of the Permit shall be submitted with the General Contractor's next payment application, without markup. All other permits and licenses necessary to perform the Work shall be paid for by the appropriate Contractor.

Delete Section 2.2.3 in its entirety and, in lieu thereof, substitute the following:

2.2.3 *[Substitute:]* Contractor shall be responsible to verify the accuracy of the site's physical characteristics, legal limitations and utility locations and bring to the attention of Owner and Architect any discrepancies discovered that may affect the Work.

Delete Section 2.2.5 in its entirety and, in lieu thereof, substitute the following:

2.2.5 *[Substitute:]* The Prime Contractors with whom Owner shall enter into a contract shall be entitled to receive ~~six (6)~~ sets of drawings and specifications without charge. Documents in usable condition returned by unsuccessful bidders will be furnished upon request without cost except for handling and delivery. Additional drawings and specifications may be purchased from Architect at a rate of \$2.00 per drawing sheet and

~~§2.5 per specification page~~ The six (6) sets of drawings and specifications referred to above shall not include the set purchased during bidding.

Section 2.3 OWNER'S RIGHT TO STOP THE WORK

2.3 Delete the word, "repeatedly" from the first sentence and the words, "except to the extent required by Section 6.1.3."

Add the following text to the end of Section 2.3.1:

2.3.1 [Add:] This right shall be in addition to and not in restriction of or derogation of Owner's rights under Article 14 hereof. The Owner's right to stop the Work shall not relieve Contractor of its responsibilities and obligations under or pursuant to the Contract Documents.

Section 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

Delete Section 2.4.1 in its entirety and, in lieu thereof, substitute the following:

2.4.1 [Substitute:] If Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from Owner to commence and continue correction of such default or neglect with diligence and promptness, Owner may, without prejudice to other remedies, correct such deficiencies immediately. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the any additional services by Architect or others made necessary by such default, neglect or failure. If payments then or thereafter due Contractor are not sufficient to cover such amounts, Contractor shall pay the difference to Owner.

Add new Section 2.5 as follows:

Section 2.5 OWNER'S REPRESENTATIVE [recheck. 2.5 being reviewed by Dave B.]

Add new Section 2.5.1 and Subsections 2.5.1.1 through 2.5.10.8 as follows:

2.5.1 [Add:] Owner's Representative during construction is Owner's designated and authorized representative to act on its behalf and, among other things, to stop work for, including, but not limited to, unsatisfactory field test results, deficient materials, equipment or systems, deficient work or unsatisfactory installations. The following is a description of actions that may be undertaken by Owner's Representative and how Owner's Representative is to interact with Architect and Contractors. Owner's Representative shall assist Owner in observing performance of the Work of Contractors. Owner's Representative shall endeavor to provide further protection for Owner against defects and deficiencies in the Work of Contractors; Owner's Representative is not however responsible for construction means, methods, techniques, sequences or procedures for safety precautions or programs, or responsibility for Contractor's failure to perform the Work in accordance with the Contract Documents and in particular the

specific limitations set forth in this Agreement are applicable. The duties and responsibilities of Owner's Representative are plenary and include the following:

- 2.5.1.1 [Add:] Owner's Representative is an employee of the Owner and may delegate to other employees orally or in writing the activities set forth herein or may convene a group of employees as may be required to consider issues presented.
- 2.5.1.2 [Add:] Owner's Representative is Owner's agent at the site and will act on behalf of Owner and will confer with Architect and Contractors as may be required. Owner's Representative's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor.
- 2.5.1.3 [Add:] Schedules: Review the progress schedule, schedule of shop drawing submittals and schedules of value prepared by Contractors and consult with Architect and Owner concerning acceptability. Monitor Contractor's prepared critical path method (CPM) schedule and Contractor's progress and conformance with project completion dates, pursuant to the CPM schedule criteria.
- 2.5.1.4 [Add:] Conferences and Meetings: Attend meetings with Architect and Contractors, such as Pre-Construction Conferences, Progress Meetings, Job Conferences, and other project-related meetings.
- 2.5.1.5 [Add:] Liaison: Service as Owner's liaison with Contractors, and assist in understanding the intent of the Contract Documents; assist Architect and Owner in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-site operations.
- 2.5.1.6 [Add:] Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
- 2.5.2 [Add:] Shop Drawings and Samples:
 - 2.5.2.1 [Add:] Monitor the recording of the date of receipt of Shop Drawings and samples.
 - 2.5.2.2 [Add:] Monitor the receipt of samples which are furnished at the site by Contractor, and notify Architect and Owner of availability of samples for examination.
 - 2.5.2.3 [Add:] Monitor the Architect's oversight of the commencement of any Work requiring a Shop Drawing sample or if the submittal has not been approved by Architect and Owner.
- 2.5.3 [Add:] Review of Work, Rejection of Defective Work, Inspections and Tests:
 - 2.5.3.1 [Add:] Conduct limited on-site observation of Work in progress to assist Architect in determining if the Work is in general, proceeding in accordance with the Contract Documents.
 - 2.5.3.2 [Add:] Report to Architect whenever it is believed that any Work is unsatisfactory, faulty, or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made. Owner's Representative shall be officially designated to act on Owner's

behalf as its authorized representative to exercise Owner's right to stop and/or suspend work or reject materials, equipment and systems or other non-conforming, deficient, incomplete and unacceptable Work in complete accordance with AIA General Conditions, Article 2.3, provided in the Contract Documents.

- 2.5.3.3 [Add:] Monitor the verification that all tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof; and observe, record, and report to Architect and Owner.
- 2.5.4 [Add:] Interpretation of the Contract Documents: After consultation with Architect and others as may be appropriate, clarify and interpret the Contract Documents are needed and transmit to Contractor, clarifications and interpretations.
- 2.5.5 [Add:] Modifications: Consider and evaluate Contractor's suggestions for modifications on Drawings or Specifications and discuss same with Architect.
- 2.5.6 [Add:] Records. In accordance with Sections 2.5.6.1 through 2.5.10.4, assure that Architect provides the following services:
 - 2.5.6.1 [Add:] Maintain orderly files for correspondence, reports of Job Conferences, Shop Drawings and samples, reproductions of original Contract Documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
 - 2.5.6.2 [Add:] Keep a diary or log book, recording Contractor hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures and send copies to Architect and Owner.
 - 2.5.6.3 [Add:] Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of materials and equipment.
- 2.5.6 [Add:] Reports:
 - 2.5.6.1 [Add:] Furnish Owner with periodic reports as required of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
 - 2.5.6.2 [Add:] Consult with Owner in advance of scheduled major tests, inspections or start of important phases of the Work.
 - 2.5.6.3 [Add:] Draft proposed Change Orders and Work Directive Changes, obtaining backup material from Contractor and recommend to Architect and Owner Change Orders, Work Directive Changes, and Field Orders.
 - 2.5.6.4 [Add:] Report immediately to Owner upon the occurrence of any accident.

- 2.5.7 [Add:] Payment Requests: Review applications for payment with Contractor for compliance with the established procedures for their submission and forward with recommendations to Owner, noting particularly the relationship of the payments requested to the schedule of values, Work completed and materials and equipment delivered at the site but not incorporated in the Work.
- 2.5.8 [Add:] Certificates, Maintenance, and Operation Manuals: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to Owner prior to final payment for the Work.
- 2.5.9 [Add:] Completion:
- 2.5.9.1 [Add:] Before a Certificate of Substantial Completion is issued, submit to Contractor a list of observed items requiring completion or correction.
- 2.5.9.2 [Add:] Conduct a final inspection in the company of Owner and Contractor and prepare a final list of items to be completed or corrected.
- 2.5.9.3 [Add:] Observe that all items on final list have been completed or corrected and make recommendations to Owner concerning acceptance.
- 2.5.10 [Add:] Owner's Representative - Limitations of Authority:
- 2.5.10.1 [Add:] Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized.
- 2.5.10.2 [Add:] Shall not undertake or limit any of the responsibilities of Contractor, Subcontractors or Contractor's superintendent.
- 2.5.10.3 [Add:] Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences, or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
- 2.5.10.4 [Add:] Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.

ARTICLE 3 - CONTRACTOR

Section 3.1 GENERAL

Delete the first sentence of Section 3.1.1 in its entirety and, in lieu thereof, substitute the following:

- 3.1.1 [Substitute:] Contractor is a person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. Unless the context otherwise requires, the term, "Contractor" refers to each

Prime Contractor and the General Contractor, designated as Lead Contractor for the Project.

Section 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

Add the following at the end of Section 3.2.1:

- 3.2.1 [Add:] Any errors, inconsistencies, or omissions discovered by Contractor shall be reported promptly to Architect using the Request for Information Form or other writing. Contractor shall be liable to Owner for its damages and costs, and shall not recover damages or costs Contractor incurs, attributable to or resulting from errors, inconsistencies or omissions in the Contract Documents, where Contractor, having recognized such error, inconsistency or omission, failed to report it to Architect in a timely manner.

Add the following new Section 3.2.1.1:

- 3.2.1.1 [Add:] Contractor shall review the drawings and Work of other separate prime contracts to determine if that Work affects Contractor's planned Work and also to assist in the coordination and scheduling of all Work.

Delete from Section 3.2.2, the language, "as well as the information furnished by Owner pursuant to Section 2.2.3."

Delete Section 3.2.4 in its entirety.

Add Sections 3.2.5 through 3.2.7 as follows:

- 3.2.5 [Add:] Owner shall be entitled to deduct from the Contract Sum amounts paid to Architect for Architect to evaluate and respond to Contractor's Requests for Information, where such information was available to Contractor from a reasonable study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or existing Project correspondence or documentation.
- 3.2.6 [Add:] Contractor shall give Architect timely notice of any additional design drawings, specifications, or instructions required to define the Work in greater detail, or to permit the proper progress of the Work. Contractor shall not proceed with any Work not clearly and consistently defined in detail in the Contract Documents, special requests, additional drawings or instructions from Architect. If Contractor proceeds with such Work without obtaining further drawings or instruction, Contractor shall correct Work incorrectly done at its own expense.
- 3.2.7 [Add:] Existing Conditions: Reference is made to the information made available by Owner and Architect. This information was utilized by Architect in preparation of the Contract Documents. Contractor may rely upon the accuracy of the factual information contained in such materials, but not for the completeness thereof for Contractor's purposes. Except as indicated elsewhere in these Contract Documents, Contractor shall

have full responsibility with respect to physical conditions in or relating to such conditions.

Section 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

Delete the following words from the second sentence of Section 3.3.1:

3.3.1 *[Delete:]* "...unless Contract Documents give other specific instruction concerning these matters."

Add the following language to first sentence of Section 3.2.2, after the words, "to Owner"

3.3.2 *[Add:]* "and to other Prime Contractors"

Add the following language to the end of Section 3.3.2:

3.3.2 *[Add:]* ...or claiming by, through or under Contractor and for any damages, losses, costs and expenses resulting from such acts or omissions.

Add the following new Subsection 3.3.2.1 as follows:

3.3.2.1 *[Add:]* If any failure by Contractor to comply with the Contract Documents or to maintain an approved project schedule causes any damage or cost to Owner, then Contractor shall indemnify and hold harmless Owner for any such damage or cost. Such damage or cost to Owner shall include any payment by Owner to others or liability of Owner to others resulting from such failure by Contractor, including but not limited to: (1) any payment or liability arising from change orders, claims, arbitration or litigation; or (2) any payment or liability for fees or costs to Owner's Representative, Architect, consultants, experts and attorneys.

Add the following new Sections 3.3.4 through 3.3.9:

3.3.4 *[Add:]* The General Contractor is designated as Lead Contractor for this Project. Each Prime Contractor shall coordinate its construction activities with those of other Prime Contractors. Lead Contractor is responsible for making all coordination decisions not mutually agreed to by the affected Prime Contractors. Disputes between Lead Contractor and one or more other Prime Contractors and disputes between two or more Prime Contractors pertaining to the creation, application, and modification of the project schedule, interferences and delays claimed by Contractor against another Prime Contractor, default in any of the obligations of another Prime Contractor that delays, interferes or otherwise harms Contractor, the furnishing of additional resources to meet the project schedule, job coordination and all aspects of the coordination, scheduling, durations, sequences, and means and methods of construction ("coordination decisions") shall be submitted in writing promptly to Lead Contractor for a final construction decision. Contractor may request that a final construction decision be rendered and confirmed in writing. The final construction decision of Lead Contractor, whether provided verbally or in writing, shall be consistent with the content and intent of the Contract Documents. The final construction decision of Lead Contractor shall be observed, accepted and fully followed by Lead Contractor and all Prime Contractors and

their subcontractors and sub-subcontractors on the Project, subject only to the commencement of the proceeding at the request of a Contractor and the commencement of an arbitration proceeding between affected Contractors under Section 15.5. The progress of the Work in accordance with the final construction decision of Lead Contractor shall not be delayed pending any such arbitration proceeding.

- 3.3.4.1 [Add:] In the event of a dispute between or among Contractors that results in the issuance of a final construction decision by Lead Contractor, or a dispute between or among Contractors that should have been submitted to Lead Contractor but was not, Contractor's sole and exclusive remedy for any and all disputes is the commencement of common-law arbitration under Section 15.5 against the other Contractor or Contractors, pursuant to the provisions of applicable law. A claim asserted between or among Contractors, and any claim that should have been asserted hereunder, must be brought within a reasonable period of time and in any event within six (6) months of Substantial Completion of the Work of Contractor bringing the claim. The damage remedy in such arbitration proceedings hereby provided in favor of Contractor shall be exclusive remedy for these and all other disputes that are or should be between and among Contractors. Contractor, including Lead Contractor, shall have no right of action against Owner, Architect, or Owner's Representative in connection with such disputes. Contractors may compel the initiation of the arbitration proceedings by a judicial action in accordance with applicable law and the provisions of Section 15.5. In any arbitration proceeding conducted, the losing party shall pay the costs of arbitration and reasonable attorneys' fees.
- 3.3.4.2 [Add:] In the event of a dispute that is not of the kind described in Sections 3.3.4 and Subsection 3.3.4.1, and where instead the dispute concerns compliance with the Drawings and Specifications for the Project and is therefore between Contractor and Owner, whether or not the dispute results in the issuance of a final construction decision by Lead Contractor or in the issuance of a direction from Architect, Contractor's sole and exclusive remedy for all claims is use of and resort to the provisions of Section 15.5. The remedies provided therein against Owner in connection with actions by Contractor shall be exclusive. Contractor shall have no right of action against Owner's Representative or Architect in connection with any such dispute.
- 3.3.5 [Add:] Refer to Division 1 Sections 011200 "Multiple Contract Summary" and 013200 "Construction Progress Documentation" for detailed requirements regarding coordination of multiple prime contracts. The requirements of Division 1 are subordinate to the requirements of these General and Supplementary Conditions.
- 3.3.6 [Add:] Contractor's supervision of Work shall include expediting and coordination of the activities of the trades. Contractor shall perform all supervising and procuring required to insure delivery of materials to maintain work schedules of sub-contractors and progress schedule of project to insure full completion of Work, to supply equipment or instruments necessary to complete specified test, checks, balancing of system, to furnish operating instructions, and to otherwise complete the obligations set forth in the Contract Documents.
- 3.3.7 [Add:] Contractor, its employees or its Subcontractors shall not install any product or equipment in a manner which is in direct conflict with the manufacturer's recommended

requirements. If the manufacturer of the product or equipment has requirements which cannot be met by the specific application indicated, Contractor shall bring this information to the attention of Architect. Products or equipment installed contrary to their manufacturer's requirements shall be replaced at no additional cost to Owner unless specifically authorized in writing by Architect.

- 3.3.8 [Add:] The Project involves mechanical, electrical and general construction installations. Contractor's representatives shall be sufficiently familiar with these trades to provide intelligent and efficient supervision, coordination and scheduling through all phases of Work.
- 3.3.9 [Add:] Contractor shall give Owner 48 hours' notice of any activity at a Project site that will impede or cause the discontinuation of operations, cause the loss of power, water, or proper heating and ventilation, or otherwise require the premises to be vacated. This notice is necessary in order to permit the Owner to relocate public safety operations to another facility. The Contractor shall schedule its work so that the public safety operations at no more than two sites have been discontinued and are not operational at any one time.

Section 3.4 LABOR AND MATERIALS

Delete from Section 3.4.2 the language, "Sections 3.12.8 and 7.4" and substitute, "Section 3.12.8"

Add the following Subsection to the end of Section 3.4.3:

- 3.4.3.1 [Add:] Owner encourages but does not require that laborers and mechanics employed be residents of the City where the Project is located.

Add the following new Sections 3.4.4 through 3.4.8:

- 3.4.4 [Add:] Substitutions may be considered from the lowest responsible Bidder of each Contract for a period of sixty (60) days after a Notice of Intent to Award Contracts is issued. Bids shall be based on the items specified. Substitutions may only be considered when requested by the successful Prime Contractor. It is the responsibility of the successful Prime Contractor to determine the equality of a proposed substitution. Substitution requests by manufacturers' representatives or product suppliers shall not be considered unless submitted through the successful Prime Contractor. Refer to Division 1, Section 016000 for additional requirements regarding substitutions.
- 3.4.5 [Add:] Substitute Work offered and accepted shall not be a basis for contingent extra charges or additional charges due to changes in related Work, such as rough-in, changes in supporting foundations, and other related Work.
- 3.4.6 [Add:] Contractor shall assume full responsibility for adequacy of substitute Work.
- 3.4.7 [Add:] Owner shall be entitled to deduct from the Contract Sum amounts paid to Architect to evaluate Contractor's proposed substitutions and to make agreed-upon changes in the Drawings and Specifications made necessary by Owner's acceptance of such substitutions.

3.4.8 [Add:] Whether indicated or not, all products on this Project shall be asbestos-free and lead-free. If any suspected asbestos-containing or lead-containing materials are installed, Owner has the right to have the material in question tested and if proven to contain asbestos or lead, Contractor shall remove all material in question and replace it with acceptable material at no additional cost to Owner.

Section 3.5 WARRANTY

Delete the following words from the first sentence of Section 3.5.1:

3.5.1 [Delete:] "not inherent in the quality required or permitted".

Delete the word "may" from the third sentence of Section 3.5.1 and substitute the word as follows:

3.5.1 [Substitute:] "shall"

Add the following new sentence to the end of Section 3.5.1:

3.5.1 [Add:] Contractor shall protect both new Work and existing conditions which may be susceptible to damage or abuse during the period of construction.

Add new Section 3.5.2 as follows:

3.5.2 [Add:] The minimum Warranty period, as defined above, shall be one (1) year from date of substantial completion. This warranty shall be in addition to and not in limitation of any other warranty required by the Contract Documents or otherwise prescribed by law.

Section 3.6 TAXES

Add a new Section 3.6.2 as follows:

3.6.2 [Add:] Contractor is aware of Owner's tax-exempt status in relation to this Project and the requirements of applicable laws related to certain limited exemptions from the application of sales taxes. Contractor has the obligation to determine the extent to which its Work is subject to sales tax by the Commonwealth of Pennsylvania, and to make all payments of sales tax that are due.

Section 3.7 PERMITS, FEES AND NOTICES

Delete Section 3.7.1 in its entirety and, in lieu thereof, substitute the following:

3.7.1 [Substitute:] General Construction or Building Permit, which is to be excluded from the Bids, shall be paid for by Owner directly or as a reimbursable item in the pay applications of Contractor awarded the Contract for General Construction, without markup. This permit shall be arranged for and paid by Owner or Architect acting on Owner's behalf, but shall be the responsibility of the General Construction Contractor to obtain.

Add new Section 3.7.2 as follows:

- 3.7.2 [Add:] Each Contractor shall submit, with no markup, the cost of any permits or inspection fees required by applicable law for Contractor's performance of Work on the Project. Owner shall reimburse Contractor, by Change Order with no markup, for fees paid to the municipal authorities having jurisdiction. Contractor shall secure and arrange for all necessary utility connections and municipal or agency approvals or permits required for the Project.

Delete Section 3.7.4 in its entirety and, in lieu thereof, substitute the following:

- 3.7.4 Refer to Section 1.09 in the Instructions to Bidders.

Delete Section 3.7.5 in its entirety

Section 3.8 ALLOWANCES

Add to the end of Section 3.8.2 the following Subsection 3.8.2.1:

- 3.8.2.1 Refer to Section 012100 of Division 1.

Section 3.9 SUPERINTENDENT

Delete the last sentence from Section 3.9.2.

Add new Sections 3.9.4 and 3.9.5 as follows:

- 3.9.4 [Add:] If Owner has in its sole discretion objections to any superintendent or assistant, Contractor shall submit a substitute to whom Owner or Architect has no reasonable objection. No increase in the Contract Sum or Contract Time shall be allowed for any such substitution.
- 3.9.5 [Add:] Contractor shall not replace its superintendent without the written consent of Owner unless the superintendent is no longer employed by Contractor.

Section 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

Delete Section 3.10 in its entirety and substitute the following:

- 3.10.1 [Add:] General Requirements.
- 3.10.1.1 [Add:] The Work under the Contract Documents shall be planned, scheduled, executed, reported and accomplished using a CPM scheduling methodology. The provisions of the General Requirements, the obligations set forth in this Section 3.10, and the directions and final construction decisions of Lead Contractor are to be followed by Contractor in scheduling its construction activities. The scheduling services of Lead Contractor are

part of its contract with Owner, but nothing herein relieves the obligations of Contractor and other Prime Contractors to schedule their own construction activities and nothing herein alters the obligation of Lead Contractor to resolve all supervision, coordination and scheduling issues between and among Contractor and other Prime Contractors.

- 3.10.1.2 [Add:] The primary objectives of the requirements of this Section 3.10 are: (1) to insure adequate planning and execution of the Work by Contractor by having a schedule of construction activities for all the Prime Contractors and their Subcontractors in final form within ten (10) days of the Notice to Proceed; (2) to assist Lead Contractor, Architect and Owner in evaluating progress of the Work; (3) to provide for optimum coordination by Contractor of its trades and Subcontractors, and of its Work with the work activities or services provided by other Prime Contractors, all under the direction and supervision of Lead Contractor; (4) to permit the timely prediction or detection of events or occurrences which may affect the timely prosecution of the Work; and (5) to provide a mechanism or tool for use by Lead Contractor and Contractor in monitoring any actions of any Contractor which may be required to comply with the requirements of the Contract Documents relating to the completion of the various portions of the Work by the Substantial and Final Completion dates specified in the Contract Documents.
- 3.10.1.3 [Add:] Contractor is responsible for determining the sequence and logic of Work activities, the time estimates of the detailed construction activities and the means, methods, techniques and procedures to be employed with regard to its portion of the Work. The Construction Schedule shall represent Contractor's best judgment of how Contractor shall prosecute the Work in compliance with the requirements of the Contract Documents. Contractor shall ensure that the Construction Schedule is current and accurate and is properly and timely monitored, updated and revised as Project conditions and the Contract Documents may require, and as may be directed by Lead Contractor. Solely at the election and in the discretion of Owner, Owner's Representative may assume such duties required of Lead Contractor in this Section 3.10 as may be in Owner's best interests. Owner's Representative shall, in such circumstances notify Lead Contractor and other Prime Contractors in writing as to which duties are being assumed. Only written direction from Owner's Representative constitutes assumption of duties of Lead Contractor, and the duties assumed are only those set forth in the written notice.
- 3.10.1.4 [Add:] Contractor shall consult with its major Subcontractors relating to the preparation of its construction plan and Construction Schedule. Major Subcontractors shall receive copies of those portions of Contractor's Construction Schedule which relate to their Work and shall be continually advised of any updates or revisions to the Construction Schedule as the Work progresses. When Contractor submits its Construction Schedule to Lead Contractor or makes any proposed updates or revisions to such Schedule, it shall be concluded by Owner and Lead Contractor that Contractor has consulted with and has the concurrence of its major Subcontractors. Contractor shall be solely responsible for ensuring that all Subcontractors comply with the requirements of the Construction Schedule for their portions of the Work.
- 3.10.1.5 [Add:] Contractor shall provide the basic data as required by Lead Contractor and by the set forth in General Requirements Division 1, relating to Work activities, durations and sequences as part of Contractor's draft of the Construction Schedule. This data shall

reflect Contractor's actual construction plan for the Project, and shall fully comply with all requirements of the Contract Documents.

- 3.10.1.6 [Add:] Lead Contractor shall provide, at no cost to Contractor, the drafting and other preparation of Contractor's data for Contractor's initial Construction Schedule, in accordance with the requirements of the Contract Documents. Contractor shall submit its data in a form or format acceptable to Lead Contractor.
- 3.10.1.7 [Add:] To carry out the intent of this Section 3.10, Contractor agrees that the orientation session, the provision of drafting and computerization services by Lead Contractor, and the reasonable exercise of any rights under this Section 3.10 by Lead Contractor, or Owner shall not be grounds for any claim against Owner, Lead Contractor or any representative of Owner by Contractor or any of its Subcontractors or Sub-Subcontractors, alleging interference, lack of cooperation, delay, disruption, harassment, negligence or hindrance by Owner or Lead Contractor, and Contractor covenants not to sue therefor.
- 3.10.1.8 [Add:] It is understood and agreed that the Construction Schedule is to represent Contractor's best plan and estimate for the Work; however, Contractor acknowledges that the Construction Schedule may have to be revised from time-to-time as the Project proceeds. Contractor further acknowledges and agrees that Owner, Owner's Representative, and Lead Contractor do not guarantee that: (1) Contractor can start work activities on the particular dates set forth in the initial schedule or as same may be updated or revised; (2) Contractor can proceed at all times in the sequence established by the Construction Schedule, or that Contractor can rely upon the utilization of only the resources and manpower Contractor initially plans for the performance of the Work; (3) Contractor's Construction Schedule shall not have to be modified in order to obtain the agreement of any Prime Contractors to the schedule; or (4) Contractor's Construction Schedule shall not have to be modified or changed by direction of Lead Contractor as provided in this Section 3.10. Any changes, modifications or adjustments made by Contractor to the Construction Schedule shall be in full compliance with all requirements of the Contract Documents.
- 3.10.1.9 [Add:] Contractor acknowledges and agrees that the schedule for its construction activities and the Construction Schedule itself must be flexible in order to accommodate and allow for its coordination with the construction activities of the other Prime Contractors.
- 3.10.1.10 [Add:] Review by Owner, Owner's Representative or Lead Contractor of the Construction Schedule or any other schedule or plan of construction of Contractor, does not constitute an agreement by Owner, Owner's Representative or Lead Contractor of any start or finish date in the schedule or specific durations or sequences for work activities of Contractor; further, nothing herein shall be construed as modifying or changing, or excusing the performance of Contractor of required portions of the Work by the Substantial and Final Completion dates as set forth in the Contract Documents.
- 3.10.1.11 [Add:] The dates for Substantial and Final Completion set forth in the Contract Documents represent only the major items of Work and may include interface dates with the construction activities of the other Prime Contractors or others. The dates for

Substantial and Final Completion are Contract requirements and are of the essence to the Contract Documents and to the coordination of the Work by Contractor. The dates for Substantial and Final Completion represent the latest allowable completion time for those portions of the Work to which each date relates. The dates for Substantial and Final Completion are not intended to be a complete listing of all Work under the Contract Documents or of all interfaces with Work activities performed by other Prime Contractors or others. Contractor shall determine the time requirements for all such interfaces and shall be responsible for planning, scheduling and coordinating the Work in order to complete in accordance with those requirements.

- 3.10.1.12 [Add:] Review by Lead Contractor and Owner's Representative of Contractor's Construction Schedule, or any revisions or updates thereto, are advisory only and shall not relieve Contractor of the responsibility for accomplishing each portion of the Work within each and every applicable Completion Date. Omissions and errors in the accepted Construction Schedule, or any revisions or updates shall not excuse performance which is not in compliance with the Contract Documents. Review by Lead Contractor does not make Owner, Lead Contractor, Owner's Representative or Architect liable to Contractor for time or cost overruns flowing from such omissions or errors.
- 3.10.1.13 [Add:] Should Contractor intend or plan to complete the Work, or any portion thereof, earlier than any applicable Completion Date or the Contract Time, Contractor shall give timely and reasonable written notice of this fact to Lead Contractor and Owner's Representative. Lead Contractor shall have the discretion to agree to or reject such early completion plan by Contractor, subject to the rights of Contractor to arbitration. Lead Contractor shall have no duty or obligation to agree to, or to cooperate with Contractor regarding any early completion plan or proposal by Contractor and shall not be liable for any damages of Contractor because of the rejection by Lead Contractor of said plan.
- 3.10.1.14 [Add:] Unless otherwise specifically provided in the Contract Documents, and in particular the General Requirements, Contractor acknowledges that Owner, Owner's Representative and Architect have contemplated in their planning and in any preliminary schedule that may have been prepared and made available to the Bidders, and in their budgeting for professional services, that the Work shall be performed on a 5-day work week basis, utilizing a single 8-hour shift per day. Owner and Lead Contractor shall have the sole discretion of approving or rejecting a variance in the work week, number of shifts, or shift length. Unless otherwise agreed by Owner or Owner's Representative, Contractor shall bear the cost of, and pay Owner, for additional staff and supervisory personnel and inspectors of any public authority having jurisdiction of the Work, necessary to support any variance in the contemplated work week, number of shifts or shift length.
- 3.10.1.15 [Add:] In all respects, Lead Contractor shall cooperate with Owner's Representative in the performance of all duties described in the Contract Documents and in particular in the exercise of Owner's Representative's assumption of any duties under Section 3.10.
- 3.10.1.16 [Add:] Any scheduling services of Owner's Representative actually provided in the event of a written assumption of some or all of the duties of Lead Contractor are part of its contract with Owner, but nothing herein relieves the obligations of Lead Contractor and other Prime Contractors to schedule and coordinate their own construction activities.

- 3.10.1.17 [Add:] If Lead Contractor or other Prime Contractors do not comply with all the above requirements and time lines, Owner reserves the right to deduct \$500.00 from the Contract amount for each day that Contractor does not comply. Owner may also proceed with enforcing other requirements of the Contract Documents.
- 3.10.2 [Add:] Post Award Activities.
- 3.10.2.1 [Add:] Upon receipt by Contractor of the Notice to Proceed, and until the Construction Schedule is completed by Lead Contractor, Contractor and other Prime Contractors and completely and finally reviewed by Lead Contractor, Contractor shall do the following.
- 3.10.2.1.1 [Add:] [Not used in these Supplementary Conditions]
- 3.10.2.1.2 [Add:] Contractor shall meet with Lead Contractor and Owner's Representative and complete a Final Construction Schedule governing the Work within ten (10) days of the issuance of the Notice to Proceed.
- 3.10.2.2 [Add:] Orientation Session: Contractor shall, upon the issuance of the Notice to Proceed by Owner, attend an orientation session relating to the requirements pertaining to schedules and reports for the Project. This orientation meeting is designed to assist Contractor in planning its Work and in developing its Construction Schedule. This session shall be held within ten (10) days after the issuance of the Notice to Proceed and shall be conducted by Lead Contractor. Contractor shall arrange for its Superintendent(s), major Subcontractors, and any scheduling consultants that Contractor may employ, to attend the orientation session.
- 3.10.2.2.1 [Add:] It is understood and agreed that Lead Contractor has no authority to waive any requirements of the Contract Documents at this orientation session, and all requirements of the Contract Documents remain applicable to Contractor's Work whether or not discussed at this session.
- 3.10.2.2.2 [Add:] Should Contractor or its principal Subcontractors fail or refuse to attend this orientation session, Owner shall have the right to immediately terminate the Agreement with Contractor for default and without liability or penalty to Owner.
- 3.10.3 [Add:] Final Construction Schedule.
- 3.10.3.1 [Add:] Within ten (10) days following completion of the issuance of the Notice to Proceed, Contractor, in consultation with Lead Contractor, shall complete its Final Construction Schedule.
- 3.10.3.2 [Add:] Lead Contractor shall provide Contractor with a draft of work activities and a listing of all activities included in the Final Construction Schedule. Any revisions, additions and/or deletions to these documents that are reasonably desired by Contractor shall be brought to the attention of Lead Contractor within two (2) days following receipt by Contractor of such draft. Lead Contractor shall, if consistent with the requirements of the Contract Documents, incorporate Contractor's proposed revisions and shall thereafter

deliver the completed Construction Schedule and other reports to Contractor and the other Prime Contractors.

3.10.3.3 [Add:] Lead Contractor shall have the right to require Contractor to modify any Contractor data or any portion of Contractor's Final Construction Schedule, or other schedules provided by Contractor in compliance of the Contract Documents, with Contractor bearing the expense thereof, and which Lead Contractor reasonably determines to be: (1) impracticable; (2) based upon erroneous calculations or estimates; (3) unreasonable; (4) required in order to ensure proper coordination by Contractor of the Work of others and with the Work or services being provided by others; (5) necessary to avoid undue interference with the construction activities of other Prime Contractors or those of any utility owners or adjoining property owners; (6) necessary to ensure completion of the Work by the dates for Substantial and Final Completion set forth in the Contract Documents; (7) required in order for Contractor to comply with the requirements of the Contract Documents; or (8) not in accordance with Contractor's actual operations. The right of Lead Contractor to establish the final Construction Schedule and to render final construction decisions on the content of the Construction Schedule is subject to the right of Contractor to arbitration. The schedule of Contractor's construction activities and the completion of the Final Construction Schedule by Lead Contractor is not subject to any requirement of approval by Contractor.

3.10.4 [Add:] Construction Schedule Content

3.10.4.1 [Add:] The Final Construction Schedule shall consist of a graphic representation of all Work activities which are part of Contractor's construction plan. The graphic representation shall include, but not be limited to, the information required by Section 01311 "Schedules & Reports" set forth in General Requirements Division 1 and the following additional information to the extent not inconsistent therewith: (1) Project name; (2) completed Work ready for use by next Contractor, Owner, etc.; (3) activities relating to different areas of responsibility, such as subcontracted Work which is distinctly separate from that being done by Contractor directly; (4) different categories of Work as distinguished by craft or crew requirements; (5) different categories of Work as distinguished by equipment requirements; (6) different categories of Work as distinguished by materials; (7) distinct and identifiable subdivisions of Work such as structural slabs, beams, columns; (8) location of Work within the Project that necessitates different times or crews to perform; (9) outage schedules for existing utility services that shall be interrupted during the performance of the Work; (10) acquisition and installation of equipment and materials supplied and/or installed by Owner or Prime Contractors; (11) material to be stored on Site; and (12) dates for completion of Work.

3.10.4.2 [Add:] For all major equipment and materials to be fabricated or supplied for the Project, the Construction Schedule shall reflect the requirements of Section 01311 of General Requirements Division 1 and to the extent not inconsistent, the following additional activities: (1) preparation of Shop Drawings, Sample and all required submissions; (2) a reasonable time for review of Shop Drawings, Samples, and submissions or such time as specified in the Contract Documents; (3) shop fabrication, delivery, and storage; (4) erection or installation; and (5) testing of equipment and materials.

- 3.10.4.3 [Add:] The Construction Schedule shall include dates for the completion of Work that are no later than the required dates for Substantial and Final Completion.
- 3.10.4.4 [Add:] All activity durations shall be given in calendar or work days, as determined by Lead Contractor.
- 3.10.4.5 [Add:] Lead Contractor shall provide an identical and exact copy of the Interim and Final Construction Schedules, both in electronic and hardcopy form as Owner's Representative may direct.
- 3.10.5 [Add:] Schedule Adoption.
- 3.10.5 [Add:] Contractor Use of Schedule as Adopted. Promulgation by Lead Contractor and its use by Contractor of the Final Construction Schedules, and of schedule revisions, shall be evidence of Contractor's agreement that the proposed schedule or schedule revision to the Construction Schedule is a true and accurate representation of its plan to complete the Work, including all Change Orders that are in Contractor's possession as of the foregoing date, that the schedule or schedule revision fully complies with the requirements of the Contract Documents, that Contractor shall prosecute the Work in accordance with this schedule revision, subject to any change therein which is implemented in accordance with the Contract Documents and that Contractor has met and coordinated with and obtained the acceptance or approval of said schedule revision by all other parties that are affected thereby, subject only to the right of Contractor to arbitration. Nothing herein shall be construed as requiring approval by Contractor of the Final Construction Schedules, or of schedule revisions.
- 3.10.6 [Add:] Updating of Construction Schedule/Progress Reports.
- 3.10.6.1 [Add:] On or about the dates specified in the Contract Documents or established by Lead Contractor, Contractor shall arrange for its Superintendent to meet at the Site with Lead Contractor to review Contractor's report of actual progress. Said report shall set forth up-to-date and accurate progress data, shall be based upon Contractor's best judgment and shall be prepared by Contractor in consultation with all Subcontractors.
- 3.10.6.2 [Add:] The progress report of Contractor shall show the work activities, or portions of activities, completed during the reporting period, the actual start and finish dates for these activities, remaining durations and/or estimated dates for completion of Work for activities currently in progress.
- 3.10.6.3 [Add:] Lead Contractor shall produce an update work sheet for Contractor to complete as a part of this process.
- 3.10.6.4 [Add:] Contractor shall submit a written report with the updated progress analysis which shall include, but not be limited to, a description of problem areas, current and anticipated delaying factors and their impact, explanations of corrective actions taken or planned, any newly planned activities or changes in sequence, and proposed logic for a recovery schedule, if required, as further described herein. The report shall also include: (1) a narrative describing actual Work accomplished during the reporting period; (2) a list of major construction equipment used on the Project during the reporting period and

any construction equipment idle during the reporting period; (3) the total number of personnel by craft actually engaged in the Work during the reporting period, with such total stated separately as to office, supervisory, and field personnel; (4) a manpower and equipment forecast for the succeeding thirty (30) days, stating such total as to office, supervisory and field personnel; (5) a list of Contractor-supplied materials and equipment, indicating current availability and anticipated job Site delivery dates; and (6) changes or additions to Contractor's supervisory personnel, if any, since the preceding progress report.

- 3.10.6.5 [Add:] Application for Payment: Except as provided in Section 3.10.7, Contractor understands and agrees that the submission and acceptance of progress updates and the receipt of progress reports are an integral part and basic element of the Applications for Payment; and that Contractor shall not be entitled to any progress payment under the Contract Documents until Contractor has fully complied with the requirements of this Section 3.10.
- 3.10.6.6 [Add:] Contractor shall be solely responsible for expediting the delivery of all materials and equipment to be furnished by or to him so that the progress of construction shall be maintained according to the currently accepted Construction Schedule for the Work. Contractor shall notify Lead Contractor in writing, and in a timely and reasonable manner, whenever Contractor determines or anticipates that the delivery date of any material or equipment to be furnished by Contractor shall be later than the delivery date indicated by the Construction Schedule, or required consistent with the completion requirements of the Contract Documents, subject to schedule updates as herein provided.
- 3.10.6.7 [Add:] Contractor shall ensure that off the Site work activities do not adversely affect progress in accordance with the Construction Schedule.
- 3.10.6.8 [Add:] Lead Contractor shall provide an identical and exact copy of all updates to the Construction Schedules, both in electronic and hardcopy form as Owner's Representative may direct.
- 3.10.7 [Add:] Initial Progress Payment. The completed Construction Schedule, including the schedule of values, shall be required for each Application for Payment. However, one initial provisional progress payment may be payable in the sole discretion of Owner's Representative if he determines Contractor is complying with this Section 3.10 during the development of the Construction Schedule and schedule of values as required herein. However, no more than one Application for Payment shall be approved until all of the requirements of this Section 3.10 have been met.
- 3.10.8 [Add:] Recovery Schedule.
- 3.10.8.1 [Add:] Should the updated Construction Schedule, at any time during Contractor's performance, show, in the sole opinion of Lead Contractor that Contractor is fourteen (14) or more days behind schedule for any Completion Date, Contractor shall prepare a recovery schedule at no cost to Owner (unless Owner is solely responsible for the event or occurrence which has caused the schedule slippage) explaining and displaying how Contractor intends to reschedule its Work in order to regain compliance with the Construction Schedule during the immediate subsequent pay period.

- 3.10.8.2 [Add:] If Contractor believes that all of the time can be recovered during the subsequent pay period, Contractor shall be permitted to prepare a recovery schedule as set forth below. However, if Contractor believes it shall take more than thirty (30) days to recover all of the lost time, Contractor shall prepare and submit a request for revision to the Construction Schedule and comply with all of the requirements of a schedule revision.
- 3.10.8.2.1 [Add:] Contractor shall prepare and submit to Lead Contractor a limited duration recovery schedule, incorporating best available information from Subcontractors and others which shall permit return to Construction Schedule at the earliest possible time. Contractor shall prepare a recovery schedule to the same level of detail as the Construction Schedule for a maximum duration of one month. The recovery schedule shall be prepared in coordination with other Prime Contractors.
- 3.10.8.2.2 [Add:] Within two (2) days after submission by Contractor or by any Prime Contractor of a recovery schedule to Lead Contractor, Contractor shall participate in a conference with Lead Contractor to review and evaluate the recovery schedule. Within two (2) days of the conference, Contractor shall submit the revisions necessitated by the review for Lead Contractor's review and acceptance. Contractor shall use the accepted recovery schedule as its plan for returning to the Construction Schedule.
- 3.10.8.2.3 [Add:] Contractor shall confer continuously with Lead Contractor to assess the effectiveness of the recovery schedule. As a result of this conference:
- 3.10.8.2.3.1 [Add:] If Lead Contractor determines Contractor is still behind schedule, Lead Contractor shall direct Contractor to prepare a schedule revision with the assistance of Lead Contractor and comply with all of the requirements of a schedule revision as stated herein and the other requirements of the Contract Documents; provided, however, that nothing herein shall limit in any way the rights and remedies of Owner and Lead Contractor as provided elsewhere in the Contract Documents; or
- 3.10.8.2.3.2 [Add:] If Lead Contractor determines Contractor has successfully complied with provisions of the recovery schedule, Lead Contractor shall direct Contractor to return to the use of the accepted Construction Schedule.
- 3.10.8.2.3.3 [Add:] Nothing herein alters the obligation of Lead Contractor to resolve coordination and scheduling issues in dispute between and among Contractor and other Prime Contractors.
- 3.10.8.3 [Add:] Lead Contractor shall provide an identical and exact copy of each Recovery Schedule, both in electronic and hardcopy form as Owner's Representative may direct.
- 3.10.9 Add:] Schedule Revisions.
- 3.10.9.1 [Add:] Should Contractor desire to or be otherwise required under the Contract Documents to make modifications or changes in its method of operation, its sequence of Work or the durations of the work activities in its Construction Schedule, Contractor shall do so in accordance with the requirements of this Section, Section 01320 of

General Requirements Division 1, and the Contract Documents. Revisions to the accepted Construction Schedule must be presented to and reviewed by Lead Contractor.

- 3.10.9.2 [Add:] Contractor shall submit requests for revisions to the Construction Schedule to Lead Contractor, together with written rationale for revisions and description of logic for rescheduling Work and maintaining the dates for Substantial and Final Completion listed in the Contract Documents. Proposed revisions acceptable shall be incorporated into next update of the Construction Schedule. Contractor shall pay Owner for costs incurred by Lead Contractor for the revisions.
- 3.10.9.3 [Add:] In all instances where a revision to the Construction Schedule will affect the construction activities of other Prime Contractors, prior to the submission by Contractor of its proposed schedule revisions, Contractor shall meet with and gain written acceptance of the Prime Contractors to make the revisions which shall be evidenced by the signatures of said Prime Contractors on the proposed schedule revisions. If accepted, the revisions, shall be binding upon Contractor and all Prime Contractors on the Project.
- 3.10.9.4 [Add:] Lead Contractor shall provide an identical and exact copy of each Schedule Revision, both in electronic and hardcopy form as Owner's Representative may direct.
- 3.10.11 [Add:] Float Time. Float or slack time associated with one chain of activities is defined as the amount of time between earliest start date and latest start date or between earliest finish date and latest finish date for such activities, as calculated as part of the Construction Schedule. Float or slack time shown on the Construction Schedule is reserved for the exclusive use and benefit of Owner.

Section 3.11 DOCUMENTS AND SAMPLES AT THE SITE

Delete Section 3.11.1 in its entirety and, in lieu thereof, substitute the following:

- 3.11.1 [Substitute:] Contractor shall maintain in a safe place at the site one record copy of all Drawings, Project Manual, Addenda, Written Modifications, Change Orders, Construction Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show all changes made during construction. Annotations on the Drawings shall show changes in the Work occasioned by field conditions or Owner/Architect authorized changes to the Work. All notations shall be dimensioned where the location of the changed item is different than that originally shown and shall show all underground utilities, sewer lines and the like which have been installed by Contractor, giving accurate dimensions from column centers and/or exterior building walls. These shall be available to Architect and shall be delivered to Architect for submittal to Owner, in good condition, upon completion of the Work and before final payment is made.

Section 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

Add new Subsection 3.12.5.1 as follows:

3.12.5.1 [Add:] Contractor shall provide Owner's Representative with a copy of the transmittal to Architect for each Shop Drawing, Product Data, Samples and other submittals, contemporaneously.

Add new Subsection 3.12.6.1 as follows:

3.12.6.1 [Add:] Work executed without the required submittals that fails to conform to the Contract Documents shall be corrected by Contractor as directed by Architect, at no additional cost to Owner.

Add new Subsection 3.12.10.1 as follows:

3.12.10.1 [Add:] Where applicable law and a provision of the Contract Documents require that Contractor engage a licensed design professional to provide a service, Contractor shall only employ a professional possessing the required Pennsylvania license.

Add new Section 3.12.11 as follows:

3.12.11 [Add:] Refer to Division 1 for further requirements regarding shop drawings, product data and samples.

Section 3.14 CUTTING AND PATCHING

Add the following new Sections 3.14.3 through 3.14.8 as follows:

3.14.3 [Add:] The General Contractor shall build sleeves and anchors into their Work for the proper engagement of the Work of other Prime Contractors provided the sleeves and anchors, along with installation instructions, are furnished at the proper time. Those who fail to comply with this provision shall do all necessary cutting and patching at their own expense.

3.14.4 [Add:] The General Contractor shall provide chases, openings and recesses in the new Work, as required, provided that the other Prime Contractors furnish the necessary information at the proper time. Those who fail to comply with this provision shall do all necessary cutting and patching at their own expense.

3.14.5 [Add:] Each Prime Contractor shall do all cutting of existing construction necessary to install their Work. Cutting of structural members shall not be permitted except by written permission of Architect.

3.14.6 [Add:] Each Prime Contractor shall repair, at their own expense, all existing surfaces cut into or damaged as a result of their Work, where such cutting or damage is beyond the rooms or spaces being altered under the General Construction Contract.

3.14.7 [Add:] Cutting by other Prime Contractors within the rooms or spaces being altered by the General Contractor shall be repaired by the General Contractors at their own expense except as specified below.

3.14.8 [Add:] All cutting and patching in finished areas shall be done by the General Contractor. All cutting of existing construction that is unnecessary, excessive or carelessly done and cutting of new construction made necessary by ill-timed construction activities shall be repaired by the responsible Prime Contractor at their own expense. All such repairing shall be accomplished by skilled mechanics of the proper trade and to the satisfaction of the Professional.

Section 3.15 CLEANING UP

Add new Section 3.15.3 as follows:

3.15.3 [Add:] Refer to Division 1, Section "Contract Closeout", for further requirements regarding cleaning up.

Section 3.16 CLEANING UP

Add after the word "Owner" in Section 3.16.1, a comma for punctuation and the word "Owner's Representative".

Delete Section 3.18.1 in its entirety and, in lieu thereof, substitute the following:

3.18.1 [Substitute:] To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Project Management Protective Liability insurance purchased by Contractor or Owner in accordance with Section 11.3, Contractor shall indemnify and hold harmless Owner, Owner's Representative, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18.

ARTICLE 4 - ADMINISTRATION OF THE CONTRACT

Section 4.1 GENERAL

Add new Subsection 4.1.1.1 as follows:

4.1.1.1 [Add:] Wherever the terms "Architect" or "Engineer" appear in the Contract Documents, these terms shall be construed to mean the design professional, Highland Associates, Ltd. Architecture Engineering Interior Design.

Delete Section 4.1.2 in its entirety.

Delete the following language from Section 4.1.3:

4.1.3 [Delete:] "as to whom Contractor makes no reasonable objection and"

Section 4.2 ADMINISTRATION OF THE CONTRACT

Delete Section 4.2.1 in its entirety and substitute the following:

4.2.1 [Substitute:] Architect will provide administration of the Contract as described in the Contract Documents and in connection with the compliance of Contractor's Work with the Drawings and Specifications. Architect has the authority to act on behalf of Owner as Owner may direct.

Add the following sentence to the end of Section 4.2.2:

4.2.2 [Add:] Contractor shall reimburse Owner for compensation paid to Architect for additional site visits made necessary by the fault, neglect or unnecessary request of Contractor.

Delete the first sentence of Section 4.2.3.

Add the following words to the end of the first sentence of Section 4.2.4:

4.2.4 [Add:] Documents and in particular Contractor's compliance with the Drawings and Specifications.

Add the following words after the first sentence of Section 4.2.4:

4.2.4 [Add:] Direct communications with Owner's Representative may be specially authorized by Owner in writing, or through the adoption of a table or matrix of responsibilities for the Project, listing communications that may occur through Owner's Representative.

Add the following to the end of the last sentence of Section 4.2.7:

4.2.7 [Add:] A claim for delay shall not be recognized or permitted on account of the failure by Architect to furnish approval or rejection of a submittal until seven (7) days after a specific, additional written request for action on the submittal is made.

Delete the second sentence of Section 4.2.8 in its entirety.

Delete Section 4.2.10 in its entirety and, in lieu thereof, substitute the following:

4.2.10 [Substitute:] Architect will have one or more project representatives present at various times at the Project sites. Contractor shall cooperate with Architect's representatives in the performance of their duties.

Delete the first sentence of Section 4.2.11 and, in lieu thereof, substitute the following:

4.2.11 [Substitute:] Architect will initially interpret and initially decide matters concerning performance under and requirements of the Contract Documents and compliance with the Drawings and Specifications on request of Owner. A claim for delay shall not be recognized or permitted on account of the failure by Architect to provide an interpretation until seven (7) days after a specific, additional written request for action on the request is made.

Delete the words "15 days" from Section 4.2.11 and substitute the following:

Delete Section 4.2.12 in its entirety.

Delete Section 4.2.13 in its entirety.

Add to the end of Section 4.2.14 the following:

4.2.14 [Add:] A claim for delay shall not be recognized or permitted on account of the failure by Architect to act upon a request for information (RFI) until seven (7) days after a specific, additional written request for action on the RFI is made.

ARTICLE 5 - SUBCONTRACTORS

Section 5.1 DEFINITIONS

Add the following language at the end of the first sentence of Section 5.1.1:

5.1.1 [Add:] or to provide materials or equipment.

Delete the first sentence of Section 5.1.2 and, in lieu thereof, substitute the following:

5.1.2 [Substitute:] A Sub-subcontractor is a person or entity of whatever tier, who have a direct or indirect contract with a Subcontractor to perform a portion of the Work at the Project sites or to provide materials or equipment.

Section 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

Delete the first sentence of Section 5.2.1 and, in lieu thereof, substitute the following:

5.2.1 [Substitute:] Within fifteen (15) days after the award of the Contract, Contractor shall furnish to Owner and Architect in writing the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Work.

Delete Section 5.2.3 in its entirety and, in lieu thereof, substitute the following:

5.2.3 [Substitute:] If Owner or Architect has reasonable objection to a person or entity proposed by Contractor, Contractor shall propose another to whom Owner or Architect has no reasonable objection. There shall be no adjustment in the Contract Sum because of such substitution.

Add new Section 5.5 PAYMENT TO SUBCONTRACTORS

Add new Sections 5.5.1 and 5.5.2 as follows:

5.5.1 [Add:] Contractor shall pay each Subcontractor, promptly upon receipt of payment from Owner, an amount equal to the percentage of completion allowed to Contractor on account of such Subcontractor's Work, less the percentage retained from payments to Contractor. Contractor shall also require each Subcontractor to make similar payments to Sub-subcontractors. All such payments shall be paid within the time limits required by the Pennsylvania Contractor and Subcontractor Payment Act

5.5.2 [Add:] If Owner fails to approve an Application for Payment for a cause which Owner and Architect determine is the fault of Contractor and not the fault of the particular Subcontractor, or if Contractor fails to make payment which is properly due to a particular Subcontractor, Owner may, at its sole election and in its sole discretion, pay such Subcontractor directly, less any amount to be retained. Any amount so paid by Owner shall be offset against future payments to Contractor or otherwise shall be repaid to Owner by Contractor. Owner shall have no obligation to pay or to see to the payment of any monies to any Subcontractor. Nothing contained in Section 5.5 shall be deemed to create any contractual relationship between Owner and any Subcontractor or to create any rights in any Subcontractor against Owner. Contractor shall promptly advise Owner of any claim or demand by a Subcontractor claiming that any amount is due to such Subcontractor or claiming any default by Contractor in any of its obligations to such Subcontractor.

ARTICLE 6 – CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

Section 6.1 OWNERS RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

Delete Section 6.1.3 in its entirety and, in lieu thereof, substitute the following:

6.1.3 [Substitute:] It is the sole duty and responsibility of each Prime Contractor, including Lead Contractor, to plan, direct and coordinate his Work as to cause no delay, loss or injury to another Prime Contractor or their Subcontractors. Coordination issues are subject to the issuance of a final construction decision by Lead Contractor. Neither Owner, Architect or Owner's Representative shall be responsible for the coordination of Contractor's Work. Lead Contractor shall be responsible for the coordination of the Work of Contractors in accordance with the Contract Documents.

Delete Section 6.1.4 in its entirety and, in lieu thereof, substitute the following:

- 6.1.4 [Substitute:] In the event a Prime Contractor causes any delay, loss or injury to another Prime Contractor, there shall be no claim asserted against Owner, Architect or Owner's Representative for money damages based on alleged acts or omissions with respect to coordinating, expediting or directing Work. If any Prime Contractor prosecutes such claim against Owner, Architect or Owner's Representative for money damages, then such Contractor shall indemnify and save harmless Owner, Owner's Representative and Architect against any and all costs, losses or expenses including counsel fees that they incur in responding to any such claim plus 10% interest per annum on all such costs from the date of occurrence of such costs up to the date of payment.

Section 6.2 MUTUAL RESPONSIBILITY

Add the following sentence to the end of Section 6.2.4:

- 6.2.4 [Add:] Contractor agrees to indemnify and hold Owner harmless for any claims or damages brought by a separate contractor arising out of the actions or omissions of Contractor, or its Subcontractors in performing their Work under the Contract Documents.

Delete Section 6.2.5 in its entirety.

ARTICLE 7 - CHANGES IN THE WORK

Section 7.1 GENERAL

Delete Section 7.1.2 in its entirety and, in lieu thereof, substitute the following:

- 7.1.2 [Substitute:] Change Orders shall be based upon agreement between Owner and Contractor. Constructive Change Directives shall be issued by Architect for changes in the Work as set forth in Section 7.4 and does not require the agreement of Contractor.

Add a new Section 7.1.4 as follows:

- 7.1.4 [Add:] Before any Change Order is prepared, Contractor shall submit to Architect an itemized breakdown of the cost of the proposed Change in the Work. The term "cost" shall be interpreted to mean and include the actual cost of the following:
1. Labor, including foremen.
 2. Materials at cost plus applicable taxes entering or otherwise incorporated permanently into the Work.
 3. Rental cost of construction plant and equipment whether rented from Contractor or others.
 4. Power and consumable supplies for the operation of power equipment.
 5. Liability insurance and bonds.
 6. Social security, old age and unemployment contributions.

Fifteen percent (15%) of the total cost of the above shall be allowed Contractor for overhead, profit, supervision and miscellaneous expenses if they perform the Work with their own forces or to the Subcontractor who performs the Work. In the case where the Work is performed by a Subcontractor, Contractor may add five percent (5%) to the Subcontractor's total amount as Contractor's commission. Where Change Orders include both increase and decrease in the Contract Amount, the above fifteen percent (15%) shall be allowed on the net increase only.

Add a new Section 7.1.5 as follows:

7.1.5 [Add:] The amount of Contract Time granted, or the absence of a grant of Contract Time in the applicable Change Order or Construction Change Directive, shall be final. Nothing herein alters the understanding that time is of the essence in the Contract.

Section 7.2 CHANGE ORDERS

Delete Section 7.2.1 in its entirety and, in lieu thereof, substitute the following:

7.2.1 [Substitute:] A Change Order is a written instrument prepared by Architect and signed by Owner, Contractor, and Architect. A Change Order is the only method by which the Contract Sum and the Contract Time may be adjusted. A Change Order shall provide for the following: (1) a change in the Work, if any; (2) the amount of the adjustment in the Contract Sum, if any; and (3) the extent of the adjustment in the Contract Time, if any.

Add to the end of Section 7.3.4 the following:

7.3.4 [Add:] Quantities are materially changed for the purpose of this Section when the quantities vary by 25% or more.

Delete Subsections 7.3.7.1 through 7.3.7.5 and, in lieu thereof, substitute the following:

7.3.7 [Substitute:] "the cost of the Work as defined in Section 7.1.4 of these Supplementary Conditions."

Delete from the first sentence of Section 7.3.9 the word "determination" and substitute the word "recommendation."

Section 7.4 MINOR CHANGES IN THE WORK

Delete Section 7.4 in its entirety.

ARTICLE 8 - TIME

Section 8.1 DEFINITIONS

Add new Subsection 8.1.3.1 as follows:

- 8.1.3.1 [Add:] Owner-Contractor Agreement provides the durations for Substantial and Final Completion of the Work. These durations are also referred to in the Contract Documents as Completion Dates.

Add new Section 8.1.5 as follows:

- 8.1.5 [Add:] The Project Schedule as used in the Contract Documents is the written schedule prepared by Lead Contractor, with information provided by the other Prime Contractors. The Project Schedule shall be periodically revised and updated in accordance with the provisions of Section 3.10 of the General Conditions and other Contract Documents. Contractor acknowledges that Lead Contractor will be making changes in and updating the Construction Schedule pursuant to Section 3.10.

Delete Section 8.3.1 in its entirety and, in lieu thereof, substitute the following:

- 8.3.1 [Substitute:] A claim for extension of time shall constitute a Claim under the Contract Documents, and shall be made in accordance with the requirements applicable to a Claim set forth in these Supplementary Conditions. Notice of the Claim must be provided in accordance with the requirements of Section 15 and no more than twenty one (21) calendar days after the initial occurrence of the event causing delay. A Statement of the Claim for an extension of time must be filed in accordance with the provisions of these Supplementary Conditions. Each day of delay shall be allocated on the basis of available scheduling information to Contractor responsible therefor. The scheduled Completion Dates and Contract Time shall be extended only when the delay is excusable, and then shall be granted to all Contractors.

Delete Section 8.3.3 in its entirety and, in lieu thereof, substitute the following:

- 8.3.3 [Substitute:] Contractor recognizes that delays, acceleration or hindrances to its Work may occur and that the obligation to meet Completion Dates and Contract Times will require changes to and adjustments in the schedule of the Work. Contractor's adherence to the scheduling and coordination requirements of the Contract Documents is required to minimize the potential for losses in these circumstances. The Contract Documents further provide a remedy in the form of arbitration by Contractor against the other Prime Contractor at fault. No Claim or litigation for increased costs, charges, expenses or damages of any kind shall be filed by Contractor against Owner, Architect or Owner's Representative (or against any of their respective employee or agents) for any changes to schedule, delays, acceleration, hindrances, or resequencing of Work due to any cause whatsoever. After giving proper notice, Contractor's sole remedy for delays, acceleration, hindrances or sequencing of Work shall be an extension of the Contract Time obtained by the timely filing of a Claim pursuant to these Supplementary Conditions. Should Contractor file any arbitration claim or litigation for money damages against Owner, Architect or Owner's Representative (including their employees or

agents) in violation of this provision, such Contractor shall provide indemnification for any costs incurred in the defense against such claim or litigation, including all fees by attorneys and experts, plus 10% interest per annum on all such costs from the date of occurrence of such costs up to the date of payment.

ARTICLE 9 - PAYMENTS AND COMPLETION

Section 9.2 SCHEDULE OF VALUES

Delete Section 9.2.1 in its entirety and, in lieu thereof, substitute the following:

9.2.1 [Substitute:] Contractor shall submit to Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work, and prepared in such form and supported by such data to substantiate its accuracy as Architect may require. This schedule, unless objected to by Architect or Owner shall be used as a basis for reviewing Contractor's Application for Payment.

Section 9.3 APPLICATIONS FOR PAYMENT

Delete Section 9.3.1 in its entirety and, in lieu thereof, substitute the following Subsections 9.3.1.1 through 9.3.1.4:

9.3.1.1 [Add:] At least fifteen (15) days before the date established for each progress payment, Contractor shall submit to Architect an itemized Application for Payment for Work completed in accordance with the Contract Documents. Such application shall be notarized and supported by such data substantiating Contractor's right to payment as Owner or Architect may require, such as copies of requisitions from Subcontractors, and reflecting retainage.

9.3.1.2 [Add:] Owner shall retain ten percent (10%) of all amounts due the Contract until the Work is fifty percent (50%) completed. When the Work is fifty percent (50%) completed, one-half of the amount retained by Owner shall be returned to Contractor, provided Contractor provides written consent of surety to such reduction in retainage to Owner along with its Application for Payment, provided Architect approved the application and reduction of retainage, and further provided that Contractor is making satisfactory progress and there is no specific cause for greater withholding.

9.3.1.3 [Add:] Owner shall retain five percent (5%) of all amounts due Contractor after the Work is fifty percent (50%) completed. The retained five percent (5%) shall be paid on with the final Payment or as otherwise provided hereafter. In the event a dispute arises between Owner and Contractor, which dispute is based upon increased costs claimed by Contractor occasioned by damages or other actions of another Contractor, additional retainage in the sum of one and one half times the amount of any possible liability may be withheld against the allegedly responsible contractor until the dispute is finally resolved, unless the contractor causing the additional claim furnishes a bond satisfactory to Owner to indemnify Owner against the claim.

- 9.3.1.4 [Add:] The full Contract retainage (10%) may be reinstated if the manner of completion of the Work and its progress do not remain satisfactory to Architect or if Surety withholds its consent or for other good and sufficient reasons.
- 9.3.1.5 [Add:] Refer to Division 1 Section "Applications for Payment" for additional requirements regarding applications for payment.
- 9.3.1.6 [Add:] Contractor expressly waives any right to penalties, interest and attorney's fees pursuant to the prompt payment provisions of the Pennsylvania Commonwealth Procurement Code, 62 Pa.C.S. Section 3931 *et seq.*

Delete the first sentence of Section 9.3.2 and, in lieu thereof, substitute the following:

- 9.3.2 [Substitute:] Unless otherwise provided in the Contract Documents, payments shall be made only on account of materials and/or equipment installed into the Work. Only when accepted in advance by Owner, payments may similarly be made for materials or equipment suitably stored at some other locations or on the site when agreed to by Owner in writing and with such reasonable conditions as Owner may require.

Add new Section 9.3.4 as follows:

- 9.3.4 [Add:] Provided Contractor's Application for Payment is received by Architect not later than the last day of the month, Owner shall make payment to Contractor not later than the 30th day of the following month. If an Application for Payment is received by Architect after the application date fixed above, payment shall be made by Owner not later than thirty (30) days after the next payment period.

Section 9.5 DECISIONS TO WITHHOLD CERTIFICATION

Delete the first sentence of Section 9.5.1 and, in lieu thereof, substitute the following:

- 9.5.1 [Substitute:] Architect shall not certify payment and shall withhold a Certificate for Payment in whole or in part to the extent necessary to protect the interests of Owner.

Revise Subsection 9.5.1.7 as follows:

- 9.5.1.7 [Revise:] Delete the punctuation mark at the end and the word "or".

Add new Subsection 9.5.1.8 as follows:

- 9.5.1.8 [Add:] Unsatisfactory prosecution of the Work in accordance with the Contract Documents, and in particular the failure to meet the obligations set forth in Section 3.10 of these Supplementary Conditions; or

Add new Subsection 9.5.1.9 as follows:

- 9.5.1.9 [Add:] Failure to comply with government statutes, regulations and laws.

Section 9.6 PROGRESS PAYMENTS

Delete Section 9.6.5 in its entirety.

Delete Section 9.6.7 in its entirety.

Section 9.7 FAILURE OF PAYMENT

Delete Section 9.7.1 in its entirety and, in lieu thereof, substitute the following:

- 9.7.1 [Substitute:] Owner may retain additional retainage in the sum of one and a half (1.5) times the amount of any possible cost to correct Work that is not in accordance with the Contract Documents. In addition, in the event a dispute arises between Owner and a other Prime Contractor, which dispute is based upon increased costs claimed by the other Prime Contractor occasioned by delays or other actions of Contractor; additional retainage in the sum of one and a half (1.5) times the amount of any possible liability may be withheld until such time as a final resolution is agreed to by all parties directly or indirectly involved unless Contractor furnishes a bond satisfactory to Owner to indemnify Owner against the claim. All money retained by Owner shall be withheld from Contractor until completion of the Project, the correction of the Work, or the completion of any arbitration that may be conducted to resolve the dispute between Contractor and the other Prime Contractor.

Section 9.10 FINAL COMPLETION AND FINAL PAYMENT

Add to Section 9.10.2 the new Subsections 6 and 7 to the end of the first sentence:

- 9.10.2 [Add:] (6) Final "as built" prints of record drawings marked by Contractor with record information as set forth in the Contract Documents; and (7) a final sworn statement from Contractor, duly executed and acknowledged, showing all Subcontractors to have been fully paid and similar final sworn statements from Subcontractors and, where appropriate, from Sub-subcontractors.

In Section 9.10.4, delete the punctuation mark at the end add of Subsection 9.10.4.3 and add a semi-colon.

Add the following new Subsections 9.10.4.4 and 9.10.4.5:

- 9.10.4.4 [Add:] latent failures of Contractor to comply with the requirements of the Contract Documents; or
- 9.10.4.5 [Add:] Architect's fees resulting from re-inspections due to Contractor's failure to satisfactorily, fully and finally complete the Work or legal and accounts costs and expenses arising therefrom.

ARTICLE 10 - PROTECTION OF PERSONS AND PROPERTY

Section 10.2 SAFETY OF PERSONS AND PROPERTY

Add new Section 10.2.8 as follows:

- 10.2.8 [Add:] Contractor shall promptly report in writing to Owner and Architect all accidents, other than minor accidents for which no medical treatment was or will be required, arising out of or in connection with the Work which cause death, personal injury or property damage, giving full details and statements of any witnesses whether or not Owner has actual knowledge of the accident. In addition, if death or serious personal injuries or serious damage are caused, the accident shall be reported immediately by telephone, internet e-mail, or messenger to Owner's Representative and Architect.

ARTICLE 11 - INSURANCE AND BONDS

Section 11.1 CONTRACTOR'S LIABILITY INSURANCE

Delete Section 11.1.1 in its entirety and substitute the following:

- 11.1.1 [Substitute:] Contractor shall purchase from and maintain in an insurance company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, and maintaining an A.M. Best rating of A- or greater, such insurance as will protect Contractor from claims set forth below which may arise out of or result from Contractor's operations under the Contract and for which Contractor may be legally liable, whether such operations be by Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:
- 11.1.1.1 [Substitute:] claims under any applicable workers' compensation law, including but not limited to the Pennsylvania Workman's Compensation Act and the Pennsylvania Occupational Disease Act of 1939, and any disability benefit or similar employee benefit act that is applicable to the Work to be performed;
- 11.1.1.2 [Substitute:] claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
- 11.1.1.3 [Substitute:] claims for damages because of bodily injury, sickness or disease, including death resulting from any of these at any time, of any person other than Contractor's employees;
- 11.1.1.4 [Substitute:] claims for damages because of personal injury other than bodily injury that is sustained by (1) a person as a result of an offense directly or indirectly related to employment of such person by Contractor, or (2) by another person;
- 11.1.1.5 [Substitute:] claims for damages, other than to the Work itself, because of physical injury or destruction of tangible property, including loss of use resulting therefrom and loss of use of tangible property that is not physically injured;

11.1.1.6 [Substitute:] claims for damages because of bodily injury, sickness or disease, including death resulting from any of these at any time, or property damage arising out of the ownership, maintenance or use of a motor vehicle, including owned, non-owned, and hired vehicles; and

11.1.1.7 [Substitute:] claims arising from Contractor's obligations under paragraph 3.18.

Delete Section 11.1.2 in its entirety and substitute the following:

11.1.2. [Substitute:] The insurance required by Section 11.1.1. shall be written for not less than the limits of liability specified in Subsection 11.1.2.1., or as required by law, whichever limit is greater. Coverages shall be maintained without interruption from the date of the commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment.

Add new Subsection 11.1.2.1 as follows:

11.1.2.1 [Add:] The insurance required by Section 11.1.1. shall be written for not less than the following limits unless the limit provided herein is less than that required by applicable law, in which case the greater limit shall apply. All limits under the General Liability coverage shall apply on a per project basis:

Workers' Compensation:

- (a) State: statutory requirement
- (b) Federal: statutory

Comprehensive Contractors' General Liability:

- (a) Bodily Injury and Property Damage:
\$1,000,000 per occurrence
\$2,000,000 aggregate
- (b) Products Completed Operations:
\$2,000,000 aggregate
- (c) Contractually Assumed Liability for Bodily Injury and Property Damage:
\$1,000,000 per occurrence
\$2,000,000 aggregate

Liability coverage shall be written under an occurrence policy with all limits applying on a project basis.

- (d) Personal Injury:
\$2,000,000 aggregate

Automobile Liability:

- (a) Bodily Injury:
\$1,000,000 per person
\$1,000,000 per accident
- (b) Property Damage:
\$1,000,000 per accident

Add new Subsection 11.1.2.2 as follows:

- 11.1.2.2 [Add:] The City of Scranton, Architect, Owner's Representative and their consultants shall be named as additional insureds under the policies of insurance required under Subsections 11.1.1.2, .3, .4, .5, .6, and .7.

Add new Subsection 11.1.2.3 as follows:

- 11.1.2.3 [Add:] Contractor shall purchase and maintain an Excess Liability policy of insurance providing no less than a five million dollar (\$5,000,000) limit of liability.

Delete Section 11.1.3 in its entirety and, in lieu thereof, substitute the following:

- 11.1.3 [Substitute:] Certificates of insurance acceptable to Owner shall be submitted to Owner's Representative for transmittal to Owner with a copy to Architect prior to the commencement of the Work. These certificates and the insurance policies required by Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled, allowed to expire, reduced, or altered until at least 30 days prior written notice has been given to Owner by the insurer. If any of the foregoing insurance coverages are required to remain in force after final payment, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Article 9 of the General Conditions.

Section 11.2 OWNER'S LIABILITY INSURANCE

Delete Section 11.2 in its entirety and, in lieu thereof, substitute the following:

- 11.2 [Substitute:] Owner shall be responsible for purchasing and maintaining Owner's usual liability insurance. Optionally, Owner may require Contractor to purchase and maintain Owner's and Contractor's Protective Liability Insurance for protection against claims that may arise from operations under the Contract. Any such requirement shall be set forth in the Contract Documents, or shall be paid for by Change Order.

Section 11.3 PROPERTY INSURANCE

Delete Section 11.3.1 in its entirety and, in lieu thereof, substitute the following:

11.3.1 [Substitute:] The property insurance required by this Section 11.3 shall cover portions of the Work stored off the site after written approval of Owner at the value established in the approval, and also portions of the Work in transit.

Delete Section 11.3.1.1 in its entirety and, in lieu thereof, substitute the following:

11.3.1.1 [Substitute:] The insurance required by this Section 11.3 is not intended to cover machinery, tools or equipment owned or rented by Contractor which are utilized in the performance of the Work but not incorporated into the permanent improvements. Contractor shall, at Contractor's own expense, provide insurance coverage for owned or rented machinery, tools or equipment which shall be subject to the provisions of Section 11.3.6.

Delete Subsection 11.3.1.2 in its entirety.

Delete Subsection 11.3.1.3 in its entirety.

Delete Subsection 11.3.1.4 in its entirety.

Delete Subsection 11.3.1.5 in its entirety.

Delete Section 11.3.2 in its entirety and, in lieu thereof, substitute the following:

11.3.2 [Substitute:] Boiler and Machinery Insurance. Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by Owner; this insurance shall include interests of Owner, Owner's Representative, Contractor, Subcontractors and Sub-subcontractors in the Work, and Owner and Contractor shall be named insureds.

Delete Section 11.3.3 in its entirety and, in lieu thereof, substitute the following:

11.3.3 [Substitute:] Loss of Use Insurance. Owner, at Owner's option, may purchase and maintain such insurance as will insure Owner against loss of use of Owner's property due to fire or other hazards, however caused. Owner waives all rights of action against Contractor for loss of use of Owner's property, including consequential losses due to fire or other hazards however caused.

Delete Section 11.3.4 in its entirety and, in lieu thereof, substitute the following:

11.3.4 [Substitute:] If Contractor requests in writing that insurance for risks other than those described herein or for other special hazards be included in the property insurance policy, Owner shall, if possible, include such insurance, and the cost thereof shall be charged to Contractor by appropriate Change Order.

Delete Section 11.3.5 in its entirety and, in lieu thereof, substitute the following:

11.3.5 [Substitute:] Before an exposure to loss may occur, Owner shall file with Contractor a copy of each policy that includes insurance coverages required by this Section 11.3.

Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire until at least thirty (30) days' prior written notice has been given to Contractor.

Delete Section 11.3.6 in its entirety and, in lieu thereof, substitute the following:

- 11.3.6 [Substitute:] Waivers of Subrogation. Owner and Contractor waive all rights against each other and against Owner's Representative, Architect, Owner's other Contractors and Owner's own forces, if any, and the Subcontractors, Sub-subcontractors, consultants, agents and employees of any of them, for damages caused by fire or other perils 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 Owner and Contractor may have to the proceeds of such insurance held by Owner. Owner or Contractor, as appropriate, shall require of Owner's Representative, Owner's Representative's consultants, Architect, Architect's consultants, Owner's separate contractors, 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 damaged.

Delete Section 11.3.7 in its entirety and, in lieu thereof, substitute the following:

- 11.3.7 [Substitute:] A loss insured under Owner's property insurance shall be made payable to Owner, who shall be required to pay Contractor the portion of such proceeds that represent the just shares of Contractor and Subcontractors for actual losses sustained and indemnified by the insurance required under Section 11.3, subject to requirements of any applicable mortgagee clause and of Section 11.3.8. Contractor shall pay Subcontractors their just shares of insurance proceeds received by Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

Delete Section 11.3.8 in its entirety and, in lieu thereof, substitute the following:

- 11.3.8 [Substitute:] Owner shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five (5) days after occurrence of loss to Owner's exercise of this power. Any such objection is subject to the disputes clauses of these Changes to the General Conditions and other Contract Documents.

Delete Section 11.3.9 in its entirety and, in lieu thereof, substitute the following:

- 11.3.9 [Substitute:] Partial occupancy or use in accordance shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. Owner and 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.

Delete Section 11.3.10 in its entirety.

Section 11.4 PERFORMANCE BOND AND PAYMENT BOND

Delete Section 11.4.1 in its entirety and, in lieu thereof, substitute the following:

11.4.1 [Substitute:] Contractor shall provide bonds in accordance with the provisions of the Public Works Contracts' Bond Law of 1967, 8 P.S. § 191, *et seq.*, and in so doing shall provide:

(a) A performance bond at one hundred percent (100%) of the contract amount, conditioned upon the faithful performance of the contractor in accordance with the plans, specifications and conditions of the contract. Such bond shall be solely for the protection of Owner or assignee. The surety's liability under the bond shall be the same as the contractor's liability under the conditions of the contract.

(b) A payment bond at one hundred percent (100%) of the contract amount. Such bond shall be solely for the protection of claimants supplying labor or materials to Contractor or to any of their Subcontractors in the prosecution of the Work provided for in the Contract Documents and shall be conditioned for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the Work. "Labor or Materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

(c) Both bonds shall be submitted using the Form appearing in the Bidding Documents. Each of such bonds shall be executed by one or more surety companies legally authorized to do business in the Commonwealth of Pennsylvania and acceptable to Owner. The bond shall be payable to Owner or assignee.

Delete Section 11.4.2 in its entirety and, in lieu thereof, substitute the following:

11.4.2 [Substitute:] Upon request of any person or entity, and the payment of a reasonable cost for copying, Owner shall provide a copy of the Payment Bond of Contractor.

Add new Section 11.6 as follows:

Section 11.5 INSURANCE AND BOND CARRIERS

Add new Section 11.5.1 as follows:

11.5.1 [Add:] All insurance and bonds required pursuant to Article 11 and the Contract Documents must be issued by insurance providers that are licensed and authorized to conduct business in the Commonwealth of Pennsylvania. The insurance carriers of whom Contractor has purchased insurance coverage are to have an "A-" or better rating

plus a financial rating of VI or better with the A.M. Best's Company (Key Rating Guide - Latest Edition).

ARTICLE 12 - UNCOVERING AND CORRECTION OF WORK

Section 12.2 CORRECTION OF WORK

Delete from the first sentence of Subsection 12.2.2.1 the words "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" and substitute the following:

12.2.2.1 [Substitute:] if, within one (1) year after the date of Final Completion of the Work or within one (1) year from date of Partial Occupancy or Use of designated portions thereof (whichever shall first occur) or after the date for commencement of warranties . . .".

Delete the last two sentences of Subsection 12.2.2.1 and, in lieu thereof, substitute the following:

12.2.2.1 [Substitute:] Nothing contained in this Section shall diminish the liability of Contractor and/or Surety as set forth in the Performance Bond, which apply to Contractor's warranty obligations and all other obligations under the Contract Documents.

Delete Subsection 12.2.2.3 in its entirety, and in lieu thereof, substitute the following:

12.2.2.3 [Substitute:] In the event any Work, material or equipment is replaced or repaired as a consequence of latent defects or failure to meet the terms of the Contract Documents, all warranties with respect to such Work, material or equipment replaced or repaired shall continue following repair or replacement of such Work, material or equipment for an additional period equivalent to the original period of warranty for such Work, material or equipment.

Add a new Section 12.2.2.4 as follows:

12.2.2.4 [Add:] Upon request by Owner and prior to the expiration of one (1) year from the date of Substantial Completion, Architect will conduct and Contractor shall attend a meeting with Owner to review the facility operations and performance.

ARTICLE 13 - MISCELLANEOUS PROVISIONS

Delete Section 13.1 in its entirety and, in lieu thereof, substitute the following:

13.1 [Substitute:] The Contract shall be governed by the law of the Commonwealth of Pennsylvania

Section 13.2 SUCCESSORS AND ASSIGNS

Delete Section 13.2.2 in its entirety.

Section 13.3 WRITTEN NOTICE

Delete Section 13.3 in its entirety and, in lieu thereof, substitute the following:

- 13.3 *[Substitute:]* Written notice is effective if hand-delivered, or if sent by facsimile, courier, or regular U.S. mail. Written notice is also effective if sent by internet e-mail to the correct e-mail address and hard-copy is thereafter faxed, delivered or mailed.

Section 13.4 RIGHTS AND REMEDIES

Delete the words, "agreed in writing," from Section 13.4.2 and substitute the following:

- 13.4.2 *[Substitute:]* provided in the Contract Documents.

Section 13.5 TESTS AND INSPECTIONS

Delete Section 13.5.1 in its entirety and, in lieu thereof, substitute the following:

- 13.5.1 *[Substitute:]* If the Contract Documents or any laws, statutes, ordinances, building codes, rules, regulations or orders of any governmental body or public or quasi-public authority having jurisdiction over the Work or the Project sites may require any portion of the Work to be inspected, tested or approved, Contractor shall give Architect and Owner timely notice thereof so Architect and Owner may observe such inspection, testing or approval.

Add new Section 13.5.7 as follows:

- 13.5.7 *[Add:]* Owner reserves the right to conduct testing and inspection of the Work using its own independent consultants. Where Owner's consultant is to perform independent testing and inspection and Contractor's obligation therefor is to be waived, a deduction in an amount Architect determines to be appropriate shall be made to the Contract Sum.

Section 13.6 INTEREST

Delete Section 13.6.1 in its entirety.

Section 13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

Delete Section 13.7.1 in its entirety.

Add new Section 13.8 as follows:

Section 13.8 SWORN STATEMENT/RELEASE OF LIENS

Add new Section 13.8.1 as follows:

- 13.8.1 [Add:] Contractor agrees that the Project is not subject to the Mechanics Lien Law. Contractor shall submit with its final Application for Payment a Sworn Statement/Release of Liens stating that Contractor has paid all Subcontractors who have performed Work on the project in the full amount they are due.

ARTICLE 14 - TERMINATION OR SUSPENSION OF THE CONTRACT

Section 14.1 TERMINATION BY CONTRACTOR

Delete Section 14.1 in its entirety.

Section 14.2 TERMINATION BY OWNER FOR CAUSE

Delete Section 14.2.1 in its entirety and, in lieu thereof, substitute the following:

- 14.2.1 [Substitute:] Owner may terminate the Contract if Contractor:
- .1 shall institute proceedings or consent to proceedings requesting relief or arrangement under the Federal Bankruptcy Code or any similar or applicable federal or state law; or if a petition under any federal or state bankruptcy or insolvency law is filed against Contractor and such petition is not dismissed within sixty (60) days from the date of said filing; or if Contractor admits in writing its inability to pay its debts generally as they become due, or if it makes a general assignment for the benefit of its creditors, or if a receiver, liquidator, trustee or assignee is appointed on account of its bankruptcy or insolvency; or if a receiver of all or any substantial portion of Contractor's properties is appointed.
 - .2 abandons the Work; or if it fails to prosecute promptly and diligently the Work or to supply enough properly skilled workmen or proper materials for the Work;
 - .3 submits an Application for Payment, sworn statement, certified payrolls, affidavit or document of any nature whatsoever which is intentionally falsified;
 - .4 fails to make prompt payment to Subcontractors for materials or labor or otherwise breaches its obligations under any subcontract with a Subcontractor; or if a claim under the Payment Bond, a mechanic's or materialman's lien or notice of lien is filed against any party of the Work or the site of the Project and not promptly bonded or insured over by Contractor in a manner satisfactory to Owner;

- .5 disregards any laws, statutes, ordinances, rules, regulations or orders of any governmental body or public or quasi-public authority having jurisdiction of the Work or the site of the Project;
- .6 otherwise violates any provision of the Contract Documents;

then Owner, upon the occurrence of the events described in clauses .1 through .6 above, without prejudice to any right or remedy available to Owner under the Contract Documents or at law or in equity may, after giving Contractor and the surety under the Performance Bond and the Payment Bond, seven (7) days written notice, terminate the Contract and the employment of Contractor on the Project and may enforce a Security Agreement by taking possession of and using all or any part of Contractor's materials, equipment, supplies and other property of every kind used by Contractor in the performance of the Work in the completion of the Work. If requested by Owner, Contractor shall remove any part or all of its equipment, machinery and supplies from the site of the Project within seven (7) days from the date of such request, and in the event of Contractor's failure to do so, Owner shall have the right to remove or store such equipment, machinery and supplies at Contractor's expense. In case of such termination, Contractor shall not be entitled to receive any further payment for Work performed by Contractor through the date of termination. Owner's right to terminate Owner-Contractor Agreement pursuant to this Section 14.2.1 shall be in addition to and not in limitation of any rights or remedies existing hereunder or pursuant hereto or at law or in equity.

Delete the words, "upon certification by the Initial Decision Maker that" from Section 14.2.2 and substitute the word, "where".

Add to the end of Section 14.2.3 the following:

- 14.2.3 [Add:] A Contractor terminated for cause related to the quality or timeliness of the Work shall not be proposed by the Surety or otherwise utilized as a completion contractor and shall not be proposed or utilized as a Subcontractor or Sub-subcontractor to the Surety where the Surety is itself performing as the completion contractor.

Delete Section 14.2.4 in its entirety and, in lieu thereof, substitute the following:

- 14.2.4 [Substitute:] If the unpaid balance of the Contract Sum exceeds all costs to Owner of completing the Work, then Contractor shall be paid for all Work performed by Contractor to the date of termination. If such costs to Owner of completing the Work exceed such unpaid balance, Contractor shall pay the difference to Owner immediately upon Owner's demand. The costs to Owner of completing the Work shall include (but not be limited to) the cost of any additional architectural, managerial and administrative services required thereby, any costs incurred in retaining another contractor or other subcontractors, any additional interest or fees which Owner must pay by reason of a delay in completion of the Work, attorneys' fees and expense, and any other damage, costs and expenses Owner may incur by reason of completing the Work of any delay thereof. The amount, if any, to be paid to Contractor shall be certified by Architect upon application, in the manner provided in Section 9.4, and this obligation for payment shall survive the termination of the Contract.

Add new Section 14.2.5 as follows:

- 14.2.5 [Add:] In the event Owner terminates the contract for cause, and in addition and without prejudice to all other rights, remedies and relief which Owner may obtain under this Agreement and pursuant to the law, Owner shall be entitled to payment by Contractor of all reasonable professional fees, including attorney's fees, architectural fees, engineering fees, and consulting fees (together with reasonable expenses and disbursements incurred in connection therewith) which Owner may incur in connection with any legal proceedings or action (including professional fees rendered in anticipation of such proceedings or action). This provision shall create no right to Contractor or to any other person or entity for payment of such costs or expenses.

Add new Section 14.2.6 as follows:

- 14.2.6 [Add:] Should Contractor or its Surety contest the termination of Contractor for Cause, and should it be finally determined that cause for the termination did not exist, Contractor shall be entitled to damages that would have been received in a termination for convenience under Section 14.4.3.

Section 14.3 SUSPENSION BY OWNER FOR CONVENIENCE

Add the following sentence to the end of Section 14.3.1:

- 14.3.1 [Add:] Any suspension by Owner for convenience does not constitute grounds of termination by Contractor under Section 14.1.

Section 14.4 TERMINATION BY OWNER FOR CONVENIENCE

Add after the words, "Work executed," in Section 14.4.3 add the following language:

- 14.4.3 [Add:] using the schedule of values provided by Contractor and used in making periodic payments

Delete the words, "along with reasonable" in Section 14.4.3 and substitute the word "excluding".

ARTICLE 15 CLAIMS AND DISPUTES

Delete the words "one of the parties" from the first sentence of Section 15.1.1, and substitute the following:

- 15.1.1 [Substitute:] "Contractor".

Delete the words "the party" in the third sentence of Section 15.1.1, and substitute the following:

- 15.1.1 [Substitute:] "Contractor".

Add the following new Subsection 15.1.1.1 as follows:

15.1.1.1[*Add:*] The term, "Claim" as capitalized and as used herein only applies to, and is hereby defined only as, an assertion by Contractor against Owner. Contractor must satisfy both the requirements related to notice and the requirements that constitute a contractual statute of limitations to preserve Contractor's Claim. To satisfy the requirements of these Contract Documents regarding the contractual statute of limitations, Contractor must file on a timely basis a Statement of Claim. Notice, written or otherwise, does not constitute a Statement of Claim.

Delete Section 15.1.2 in its entirety and, in lieu thereof, substitute the following:

15.1.2 [Substitute:] A Claim as defined herein must be preceded by notice to Owner, given within twenty-one (21) days after Contractor first recognizes the condition or occurrence which gives rise to the Claim, provided that, where the Claim is for additional work beyond the requirements set forth in the Drawings and Specifications, notice must be given a reasonable number of working days in advance of the construction activities being undertaken. For additional Work of an emergency nature, needed to protect the safety of property and persons, notice may be given promptly after the additional work is performed. The failure to give required notice to Owner shall constitute a waiver of Contractor's Claim. The requirement of notice is satisfied where there is issued, and Contractor may therefore rely upon, written directives of Architect or Owner's Representative, including but not limited to the issuance by Architect of a Construction Change Directive.

Delete the last sentence of Section 15.1.3.

Delete Section 15.1.4 in its entirety and, in lieu thereof, substitute the following Subsections 15.1.4.1 to 15.1.4.5:

15.1.4.1 [Substitute:] The intention of these Contract Documents and this Section 15.1.4 is to assure Owner of the prompt notice of each Claim against Owner upon the occurrence of the first event upon which the Claim is based. A Contractor who asserts a Claim against Owner only at the conclusion of several events upon which the Claim is ultimately based, or at the realization of damages beyond initial damages, shall be conclusively deemed to have waived the Claim. Contractor shall specifically be prohibited from deferring the giving of notice or the assertion of a Claim against Owner on the basis that some or all of the damages have not been incurred. Contractor may not defer notice to Owner or the filing of the Statement of the Claim by asserting that it is reserving or otherwise preserving its rights, because no right exists to defer either notice or the filing of the Statement.

15.1.4.2 [Substitute:] Owner requires the prompt notice of a Claim upon the first occurrence of an event which gives rise to the Claim in order to provide Architect and Owner's Representative with an opportunity to reduce or otherwise mitigate the potential cost and delay that would otherwise occur and to assure that all Claims submitted have validity and are not the product of misrepresentation or fraud. Owner requires prompt assertion of the Claim through the filing of the Statement of Claim similarly to reduce the potential for misrepresentation and fraud.

15.1.4.3 [Substitute:] Without regard to compliance by Contractor with respect to notice, the failure of Contractor to provide a Statement of Claim within ninety (90) days of the occurrence of the first event upon which the Claim is based shall conclusively constitute a waiver and abandonment of the Claim. This provision is to be interpreted and applied as a contractual limitations period, in lieu of any and all statutory periods of limitation provided in law. The ninety (90) day period for the filing of a Statement of Claim is agreed to by Contractor, and shall be conclusively treated, as reasonable in accordance with 42 Pa. C.S.A. § 5501(a).

15.1.4.4 [Substitute:] A Statement of Claim must include: (1) an identification of the basis set forth in the Contract Documents for payment of the Claim by Owner; (2) an itemization of the damages that have been incurred and have accrued to the point in time when the Statement of Claim is prepared; (3) factual and documentary support for the proposition that Owner is liable; and (4) factual and documentary support for the itemization of damages.

15.1.4.5 [Substitute:] Nothing set forth in these Subsections 15.1.4.1 through 15.1.4.5 applies to any demand for damages or claim of any kind that is, should have been, or could be asserted between or among Contractor and other Prime Contractors in arbitration.

Delete the words in Subsection 15.1.5.1, "as provided herein," and substitute the following:

15.1.5.1 [Substitute:] "as provided in these Supplementary Conditions".

Delete the third sentence of Subsection 15.1.5.1 in its entirety and, in lieu thereof, substitute the following:

15.1.5.1 [Substitute:] Contractor in supporting its Claim for an extension of time must comply with the requirements of Section 3.10 of these Supplementary Conditions, and must document its Claim by reference to and on the basis of the Final Construction Schedule, as updated and revised. A Claim for increase in the Contract Time or otherwise for an extension of time must be filed in the form of a Statement of Claim and must be supported by documentation, including but not limited to excerpts and portions of the Construction Schedule prepared and updated in accordance with the requirements of Section 3.10 and the General Requirements. The Statement shall set forth in detail: (1) the circumstances that form the basis for the Claim, (2) the support for the proposition that the delay is "critical," meaning impacting the critical path of construction activity, (3) the date upon which each cause of delay began to affect the progress of the Work, (4) the date upon which each cause of delay ceased to affect the progress of the Work; and (5) the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. Contractor shall not be entitled to a separate increase in the Contract Time for each one of the number of causes of delay which may have concurrent or interrelated effects on the progress of the Work, or for concurrent delays due to the fault of Contractor. Contractor shall provide such additional supporting documentation as Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the Claim. Contractor shall be bound by the scheduling information submitted by him in connection with Section 3.10 of these General Conditions.

Add new Subsection 15.1.5.3 as follows:

15.1.5.3 [Add:] Anticipated Adverse Weather Delays: In planning the construction schedule within the agreed Contract Time, it shall be assumed that Contractor has anticipated the amount of adverse weather conditions normal to the site of the Work for the season or seasons of the year involved. Only those weather delays attributable to other than normal weather conditions will be considered.

The following schedule of monthly anticipated adverse weather delays is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the project location and shall constitute the base line for monthly weather time evaluations. Contractor's construction schedules must take into account any effect these anticipated adverse weather delays in all weather-dependent activities.

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
14	7	7	8	8	7	4	5	4	4	5	7

Add new Subsection 15.1.5.4 as follows:

15.1.5.4 [Add:] Impact: Upon acknowledgement of the Notice to Proceed and continuing throughout the contract, Contractor shall record in a daily log the occurrence of adverse weather and resultant impact to normally scheduled work. Actual adverse weather delay days must prevent work on critical activities for 50 percent (50%) or more of Contractor's scheduled work day. The number of actual adverse weather delay days shall include days impacted by actual adverse weather (even if adverse weather occurred in previous month), be calculated chronologically from the first to the last day of each month, and be recorded as full days. If the number of actual adverse weather delay days exceeds the number of days anticipated in paragraph 4.3.7.3 above, Architect will convert any qualifying delays to calendar days, giving full consideration for equivalent fair weather work days, and issue a no-cost change order for additional days, to be executed by Owner, Architect and Contractor. This no-cost change order shall be the sole remedy for delays associated with weather.

Add new Section 15.1.7 as follows:

15.1.7 [Add:] Contractor agrees and acknowledges that Owner is a "contracting body" under the Public Works Contractors' Bond Law of 1967, and the Work on the Project is public construction and not subject to the filing of Mechanics Liens, and further agrees to provide and specify in its subcontracts with subcontractors for their acknowledgment that their sole remedy against Owner exists only under the provisions of the Bond Law and in accordance with the Payment Bond.

Section 15.3 Change the heading of this Section 15.3 to "RESOLUTION OF CLAIMS AND DISPUTES"

Delete this Section 15.3 in its entirety and, in lieu thereof, substitute the following:

15.3.1 [Substitute:] It is the further intention of these Contract Documents that all claims between Contractors related to coordination and scheduling of the Work, and all delays,

disruptions, and interferences caused by Contractors, be resolved between Contractors. Specifically, by execution of the Agreement, Contract agrees to the following:

- 15.3.1.1[*Substitute:*] Owner is not responsible for delays caused by any Contractor. Owner is not responsible for problems caused by the failure of a Contractor to coordinate and schedule its Work with other Contractors. Owner is not liable for any damages suffered by a Contractor arising from any Contractor's delays and/or failure to coordinate its Work. Contractor hereby waives and releases Owner from any liability and damages caused by lack of coordination by a Contractor, or between or among Contractors, including their subcontractors and suppliers.
- 15.3.1.2[*Substitute:*] Architect, Owner's Representative, and Owner and their representatives shall not be liable to Contractor for any increased costs or damages for defective Work, interference, or delays resulting from any conflict between or among Contractors, their subcontractors and suppliers. Neither Owner, Owner's Representative or Architect shall be a party to disputes or actions between or among Contractors or their Subcontractors concerning such additional expense or damage. Contractor's exclusive remedy in this regard is arbitration between Contractors involved.
- 15.3.1.3[*Substitute:*] It is agreed by all parties that disputes or actions between Contractors concerning any additional expense or damage herein before mentioned shall not delay completion of the Work, which shall be continued by the parties pending final resolution of a claim including judicial proceedings. All final construction decisions regarding scheduling and coordination of the Work, whether rendered orally or in writing, shall be observed and followed fully.
- 15.3.1.4[*Substitute:*] Each Contractor hereby waives privity of contract defenses, and any assertion that Owner is vicariously or otherwise responsible for the acts and omissions of other Prime Contractors. Each Contractor agrees that other Prime Contractors have the right to file claims in arbitration against Contractor in the event Contractor is alleged to have caused damages to another Contractor by reason of the failure to meet schedule, or delay, disruption, interference, or lack of coordination.
- 15.3.1.5[*Substitute:*] It is agreed by the parties to this Contract (Owner as promisee and Contractor as promisor) that the intent of this Section 15.3 is to benefit Owner and Owner's interests, and that the provisions of the Contract Documents raises Contractor and such other Contractors to the status of third party beneficiaries in connection with the coordination and scheduling of the Project, and claims between Contractors, and for no other purpose. Contractor specifically releases, foregoes and waives any claims against Owner, Owner's Representative, or Architect for extended overhead, delay damages, "impact" damages, loss of efficiency, loss of productivity, or any other similar form of loss, damage or compensation, or other damages related to coordination and scheduling of the Project and all delays, disruptions, and interferences caused by the other Prime Contractors.
- 15.3.2 [*Substitute:*] These Sections 15.3.1 and 15.3.2 apply to any claim that is or was, should be or should have been, or could be or could have been asserted between or among Contractor and other Prime Contractors, whether or not Lead Contractor rendered a final construction decision under Section 3.3.4 and whether or not the claim is submitted to arbitration under Subsection 3.3.4.1.

15.3.3 [Substitute:] A Claim that may properly be asserted against Owner shall be submitted to Architect. At all times, Contractor must comply with the obligation to provide notice under Section 15.1.4. Architect will evaluate the Claim and will in the discharge of Architect's professional responsibilities advise Owner regarding its professional advice and opinion as to the disposition of the Claim. Architect may seek additional information from Contractor. Contractor shall forfeit the Claim if, after seven (7) days' notice, Contractor fails to cooperate with Architect's reasonable requests. Architect's response to Contractor's Claim shall not constitute a decision of Owner on the Claim under Section 4.6. Architect's response to Contractor's Claim rejecting the Claim without requesting additional information, an additional opportunity to meet, or an additional opportunity to consider the Claim in further detail, shall constitute the occurrence of the first event upon which the Claim can be based, and the ninety (90) day period allowed for the filing of the Statement of the Claim shall commence. The failure to file the Statement of the Claim shall conclusively constitute a waiver and abandonment of the Claim.

Section 15.4 Change the heading of this Section 15.4 to "ADMINISTRATIVE CLAIMS PROCEDURE"

Delete this Section 15.4 in its entirety and, in lieu thereof, substitute the following new Sections 15.4.1 through 15.4.12:

- 15.4.1 [Substitute:] A Claim or dispute that is properly between Contractor and Owner shall be submitted to Owner's Representative in the form of a Statement of Claim, as provided in Section 15.5. The proceedings under this Section 15.4 may be properly invoked only as to a Claim between Contractor and Owner, and not to disputes involving scheduling and coordination decisions between Contractors. Consideration by Owner of a Claim asserted by Contractor to be proper under this Section does not constitute acquiescence in or acceptance of the correctness of the Claim's assertion.
- 15.4.2 [Substitute:] Disputes arising from final construction decisions of Lead Contractor, and disputes that could have been submitted to Lead Contractor for a final construction decision, and disputes between or among Contractors arising from coordination and scheduling on the Project are subject to the exclusive remedy of arbitration between the involved Contractors.
- 15.4.3 [Substitute:] The rendering of a final construction decision by Lead Contractor or the rendering of a response by Architect to Contractor's Claim does not constitute either a formal decision or a final decision of Owner under this Section.
- 15.4.4 [Substitute:] A Claim or dispute of whatever kind against Owner shall be submitted by the filing of a Statement of Claim and shall in the first instance be referred to Owner's Representative with a request for a formal decision in accordance with this Section. Owner's Representative may respond in writing to the submission of a Claim by requesting that Contractor provide additional documents and information relating to the Claim. The failure to provide the requested documents and information shall constitute a waiver and forfeiture of the Claim. Owner's Representative may also reject the Claim and, if so, shall provide Contractor with an additional seven (7) days to resubmit the