



# PROCEDURES MANUAL PROJECT PLANNING AND CONSTRUCTION

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## Introduction to the Diocesan Project Planning Procedures

**“Unless the Lord build the house,  
they labor in vain who built it.”**

(PS. 127/1)

**The primary mission of the Diocese of Covington is the salvation of souls.** Every endeavor must lead to this end, for ours is a spiritual mission. Buildings are sometimes necessary to carry out this mission, but must not become ends in themselves.

**WE NEED BUILDINGS.** They provide places of worship, space for education programs and other ministries of the church. But whatever buildings we choose to construct, the focus must be on the spiritual. In addition, the goods of this earth are entrusted to us only as stewards and we must be good and responsible stewards when we build churches, schools and other institutions.

To this end, the Diocesan Office of Buildings and Property was created and the Diocesan Building Commission was formed. The Commission includes professionals with design, construction and facility maintenance experience. Its members are appointed by the Bishop of Covington. Its primary function is to advise the Bishop on building related matters in his ministry of governing. Its specific focus is to assist parishes, schools and other institutions in dealing with the challenges of design and construction. Building

Commission members welcome the opportunity to provide guidance and are available for informal consultation whenever a potential building need arises.

The Diocesan Project Planning and Construction Procedures Manual is intended to ensure consistent standardized processes are followed within the Diocese for the procurement of design and construction services. Following the outlined steps will ensure projects are well planned and designed, financial and legal risks are minimized and services are contracted fairly and ethically.

**It is important to communicate with the Buildings and Property Office early in the planning process** to avoid delays. The Diocesan Director of Buildings and Property is the contact person and may be reached at 859. 392.1500.



## Diocesan Contact Information

**Primary Point of Contact** and direct contact for all building, property and construction issues.



**Don Knochelmann**  
**Director of Buildings and Property**  
**Diocesan Building Commission Chair**

Diocese of Covington  
1125 Madison Avenue  
Covington, KY 41011  
859-392-1500 office  
[dknochelmann@covdio.org](mailto:dknochelmann@covdio.org)

**Point of Contact** for all issues relating to the renovation or construction of a place of worship.



**Fr. Ryan Maher**  
**Director, Worship Office**

Diocese of Covington  
1125 Madison Avenue  
Covington, KY 41011  
859-392-1500 office  
[rmaher@covdio.org](mailto:rmaher@covdio.org)

**Point of Contact** for all finance issues.



**Dale Henson**  
**Chief Financial Officer**

Diocese of Covington  
1125 Madison Avenue  
Covington, KY 41011  
859-392-1500 office  
[dhenson@covdio.org](mailto:dhenson@covdio.org)

**Point of Contact** for all fund raising and capital campaign activities.



**Mike Murray**  
**Director, Office of Stewardship and Mission Services**

Diocese of Covington  
1125 Madison Avenue  
Covington, KY 41011  
859-392-1500 office  
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## Executive Summary

The following is an overview of the Diocesan Project Planning and Construction Procedures Manual to assist in directing the user to frequently needed information. Each section is explained in more detail later in the manual.

**BEFORE YOU START** Some thoughts as you begin a renovation or construction program.

- Do not leave prayer or God out of the process.
- Your work is an act of stewardship of God's gifts.
- Understand this is not about individuals; it is about your whole parish community.
- Pray and choose the Planning and Building Committee wisely; include a diversity of people, ideas, abilities and approaches.
- Keep your whole parish continually informed about the project status.
- Determine your budget, fund raising and borrowing ability. Parishes must have 50% of the total project cost on hand before construction starts.
- Master plan your site, dream the impossible dream and think about tomorrow, but realize you must be able to pay for the dream in a way that is responsible and does not compromise ministry or programs.
- Choose your design and building team well; cheapest is not always the best.
- Conduct a project life cycle cost analysis. (initial project cost, energy, operation, maintenance, repair/replacement costs, etc.)
- In designing, take your time; get it right on paper.
- Understand what you are buying. Ask a lot of questions. The right questions can save problems.
- Remember your physical building is all about the environment for people. Consider impressions, comfort, accessibility and visuals.





## Approval, Authority and Procedures Overview

**The approval process and approval authority will vary.** Depending on the complexity and estimated cost of the work, a review by the Diocesan Building Commission may be required. This commission meets bimonthly; therefore it is important to include this requirement in the project schedule. Contact the Buildings and Property Office to discuss the project particulars and to determine if a review by the Building Commission is required. 859-392-1500. See page 5 for more contact information.

**A SUMMARY OF THE PROCESS.** See each individual section for more detail.

**FUNDRAISING AND CAPITAL CAMPAIGN:** The parish, school or institution leadership is to submit a letter to the Bishop requesting approval to study the feasibility of the project. Approval must be received prior to the start of any fundraising or capital campaign activity.

**SELECTION OF DESIGN PROFESSIONALS:** The parish, school or institution leadership is to submit a letter to the Bishop requesting approval to solicit proposals for professional design services. Prior to soliciting any proposals or conducting any preliminary design work, the Diocesan Buildings and Property Office must be contacted to develop a list of approved design professionals that fit the project.

**MAJOR CAPITAL MAINTENANCE OR REPAIR:** Major maintenance or repair projects must follow the action levels outlined in the "Major Capital Maintenance or Repair" section of this manual. The parish, school or institution leadership must contact The Diocesan Buildings and Property Office, review the particulars of the project and request approval based on the requirements outlined in the "Major Capital Maintenance or Repair" section of this manual.

**RENOVATION OF A CHURCH OR CHAPEL:** If the project involves the repair or renovation of a chapel or church, the project must be coordinated from the beginning with the Director of the Diocesan Worship Office.

**NEW CONSTRUCTION, RENOVATION AND REMODELING:** For all new Construction, Renovation and Remodeling projects, the Parish, School, or Institution Leadership is to contact the Diocesan Buildings and Property Office to review the proposed project. Depending on the project scope, complexity, and cost, the Buildings and Property Office may approve the project under the requirements of the "Work Notification Form" (page 69) or may require a formal written request to the Bishop requesting approval based on the requirements outlined in the "New Construction" section of this manual.

**INSURANCE REPAIRS AND RESTORATION TO REAL PROPERTY:** If the repair or replacement is due to an accident or weather related damage, report the occurrence to Catholic Mutual and follow the requirements outlined in the "Insurance Claim" section of this manual.

**PROPERTY ACQUISITION OR ALIENATION:** The parish, school, or institution leadership is to submit a letter to the Bishop requesting approval for all property related transactions. Refer to the "Property" section of this manual for more detail.

**PROPERTY LEASING:** The parish, school, or institution leadership is to submit a letter to the Bishop requesting approval for all property leasing activities. Refer to the "Leasing" section of this manual for more detail.



## Fundraising and Capital Campaign

**The Diocese of Covington has developed policies/procedures regarding capital campaigns** for parishes, schools, and other Diocesan entities. The following is an outline of the policies and procedures:

**STEP 1** A parish/school/Diocesan ministry (which from this point on is referred to as “the organization”) that is interested in a capital campaign project must contact the Office of Stewardship and Mission Services to institute a first meeting with Diocesan personnel. The first meeting is held with representatives of the organization, the Vicar General of the Diocese, the Stewardship Director, and the Director of Finance (Please note: if the project is for a capital campaign for building or property needs, or includes a school, the Director of Buildings and Property and Superintendent of Diocesan Schools will be present at all meetings). At that meeting, the organization brings the Diocese up-to-date on the organization’s needs and what they have accomplished to-date. Diocesan representatives then review the established policies and procedures with the organization so that the organization has a clear picture of what is to be expected regarding the available Diocesan resources.

**STEP 2** When the organization is ready to present its project and plans to the Bishop, representatives of the organization are expected to contact the Stewardship Office to schedule the next meeting. With the Bishop present, the organization then presents its needs, drawings of the project, statistics, an outline of plans, etc. to meeting attendees. After the meeting, the Bishop meets with his advisors to discuss the information that has been received. At that time, a recommendation as to whether or not the Bishop should grant permission to the organization to begin the process of hiring a consultant and conducting a feasibility study is determined.

**STEP 3** With the Bishop’s approval, a letter is sent documenting the approval to hire a consultant and to conduct a feasibility study for the organization. A follow-up letter is sent by the Director of Stewardship with information regarding a feasibility study, a list of “approved” consultants, and a list of questions the institution may want to ask those consultants during the interviews. It is suggested that the organization contact several of the firms on the list by phone, where an informal interview can be conducted at that time. The organization

should also ask the firm to send information and a proposal to the organization. It is the recommendation of the Stewardship Office that three consultants be interviewed in person and, if possible, on the same day.

**STEP 4** Once a feasibility study has been completed, the organization calls the Office of Stewardship and Mission Services and asks to schedule an appointment to present the results of the feasibility study to the Bishop and his advisors. The consultant should also be available to attend this meeting. After the meeting, the Bishop meets with his advisors and provides a decision as to whether or not the organization should be given permission to proceed with a capital campaign. If the project is a capital campaign for building needs, and the feasibility study demonstrates that it will not be possible to raise the amount needed, the advisors discuss options that the organization may wish to pursue to fund the remainder of the project. The organization will be expected to have these financial plans in order before permission to build will be granted. The director of finance is closely involved with all financial aspects of the project.

**STEP 5** Once the capital campaign is completed, a meeting is scheduled to discuss the results of the total financial plan. The Bishop and his advisors must know that the organization can handle the debt – even if a majority of the money is raised. Pledges to a campaign are usually payable over three to five years, and the organization needs to be able to borrow the money it will need in order to pay its bills. The Bishop and his advisors also look at the additional cost that will be incurred with the completion of a new building. All projects must have 50% cash on hand and receive written approval from the Bishop prior to starting any construction.

**STEP 6** If the capital need is a Church, the parish must work closely with the Worship Office so that the Church is built according to liturgical policy. Permission to build will not be given until the plans are approved by this committee.



## Selection of Professional Design Services

**The initial step to selecting an architect should be a parish self-evaluation.** Understanding the mission statement of your particular community and why it actually exists is an important tool in building for the future. Once the purpose of a building program is understood and the financial ability is evaluated, the selection process can be more effective. In this way, your parish can communicate its needs, resources, expectations, and schedule to an architect during the interview process.

**STEP 1 REQUEST APPROVAL TO SOLICIT FOR ARCHITECTURAL SERVICES** The Parish, School, or Institution Leadership will write a letter to the Bishop requesting approval to solicit proposals for professional design services. The letter should contain the following information:

1. A brief project update indicating any changes to the scope since the initial approval was granted at the Fundraising Stage.
2. An preliminary total project cost estimate (including architects fees, construction, furniture, furnishings, etc.). The Buildings and Property Office can be of assistance at this point.
3. A statement that the Parish Finance Council understands the current Diocesan funding formula for the project and its proposed plans to raise or secure necessary funds. The Offices of Finance and Stewardship can be of assistance at this point.

**Upon receipt of written approval from the Bishop's Office,** the Pastor or Institution Leadership shall proceed to Step Two. The Diocesan Buildings and Property Office will assist in the RFP process and will oversee the development of the Contract for professional design services.

**STEP 2 FORMATION OF A SELECTION COMMITTEE** A selection committee is to be assembled by the Pastor or Institutional Leadership. The selection committee shall do the following.

1. Refine the project scope.
2. Contact the Diocesan Buildings and Property Office to develop a list of approved design firms to be invited to submit a proposal. In developing the list, the Director of the Buildings and Property Office will work with the selection committee and select three firms that best fit the project needs.
3. Develop a detailed review and interview process that lists selection criteria and point values. The Buildings and Property Office is to be contacted at the beginning of this process and will assist with the development of the RFP.
4. Refine Design Professional's scope of services and negotiate design fee.

**STEP 3 SUBMIT RECOMMENDATION TO THE BISHOP** The parish, school, or institution leadership will write a letter to the Bishop requesting final approval to enter into a contract with the selected design professional. **The AE contract is to be processed through the Buildings and Property Office and all contract documents must be signed by the Bishop.** The letter should contain the following.

1. Provide an update on the Capital Campaign / Fundraising status for this project.
2. Provide a detailed anticipated schedule for the design and construction for this project.



## Major Capital Maintenance and Repair

**WORK NOTIFICATION FORM:** All maintenance and repair projects over \$2,500 and up to \$20,000 require the submission of a Work Notification Form (page 69) to the Diocesan Buildings and Property Office.

The proposed work outlined in the Work Notification Form will be reviewed by the Buildings and Property Office and a reply will be sent within seven days. If the project involves work that must be completed as an emergency, contact the Buildings and Property Office, 859-392-1500. More contact information on page 5.

**INSURANCE WORK:** If the repair or replacement is due to accident or weather related damage, report the occurrence to Catholic Mutual and the Buildings and Property Office.

**Catholic Mutual 1-800-228-6108**

**Diocesan Buildings and Property Office  
859-392-1500**

The initial work of securing and protecting the building from vandalism or further damage from weather can be completed without getting bids as directed by the insurance adjustor.

All subsequent insurance related repairs are subject to the competitive bidding requirements outlined in "Capital Maintenance and Repair \$20,000 and under".

### **CAPITAL MAINTENANCE AND REPAIR \$20,000 AND UNDER:**

All projects at this level require three competitive bids for the repair / replacement and the submission of a "Work Notification Form" (page 69) and a certificate of insurance in accordance with (Exhibit A).

### **CAPITAL MAINTENANCE AND REPAIR OVER \$20,000:**

All projects at this level require review by the Diocesan Buildings and Property Office and may require a review by the Diocesan Building Commission. Contact the Buildings and Property Office early so that delays can be avoided.

**The following information must be submitted to the Buildings and Property Office.**

1. Complete Project Scope of Work
2. Proposed Project Schedule
3. Estimated Total Project Cost
4. Source of Project Financing





## Renovation of Places of Worship

The following process is provided to assist a pastor, parish pastoral council, and/or building committee in the creation or renovation of a worship space. The Diocesan Policy states:

**The mission of the Office of Worship and Liturgy for the Diocese of Covington is to serve the Church by helping to create appropriate spaces for Catholic worship and the sacraments.**

**The construction, renovation, or restoration of a church or chapel is a project that belongs not only to the local parish but also to the whole Diocesan Church. When a worship space is constructed or renewed, “it is the Bishop who, in his role of fostering and governing the liturgy, must assume primary responsibility and authority for the regulation and direction of such projects.”**

[Built of Living Stones, 34.]

This Office of Worship and Liturgy assists our Bishop in his role as the director, promoter, and guardian of the liturgical life of the local Church. The Worship Commission is the primary review commission and resource for the construction and renovation (including restoration) of churches and chapels in the Diocese, from the early discernment process to the completion of the work. To this end, the Diocesan Bishop charges the commission with these responsibilities:

1. To establish and communicate norms for the construction and renovation of churches and chapels in the Diocese
2. To ensure a clear liturgical vision is articulated throughout the planning, design and construction process.
3. To assist with liturgical education.
4. To review, recommend changes and approve proposed concepts and plans for liturgical and artistic components of a church's or chapel's design in renovation and/or new building.
5. To advise and support the Diocesan Bishop.

**Giving shape to a new church or chapel—or making changes to an existing worship space is a challenging and exciting time for a parish community and the Diocesan Church. The smallest project can be an opportunity to enhance worship. The entire process requires careful thought, teamwork, and skillful preparation on the part of all. The involvement of the congregation, designation of a building committee and compliance with Diocesan guidelines are essential.**



## New Construction, Renovation and Remodeling

**When a parish, school or Diocesan institution anticipates a construction project, the Buildings and Property Office should be the first contact point.** The Office will help guide the parish through the process of funding, designing, and building the project. See page 5 for contact information.

**PROJECTS UNDER \$50,000** The following steps are required for construction, renovation and remodeling projects in this section.

1. Contact Buildings and Property Office to review project specifics prior to soliciting bids.
2. Provide details on the project funding source.
3. Provide a detailed scope of work.
4. Secure three competitive bids for the project.

**PROJECTS \$50,000 OR MORE** The following steps are required for construction, renovation and remodeling projects in this section.

1. Identification of the needs and the development of the proposed construction or renovation concept.
2. Submit a letter to the Bishop requesting approval to review the project with the Diocesan administration.
3. Schedule a meeting to review the project with the Diocesan administration.
4. The Diocese of Covington requires a competitive bidding process for all construction work. The parish, school or Diocesan Institution must contact the Buildings and Property Office to develop a pre-qualified list of contractors to be invited to submit a bid.

The selection or prequalification of bidders is a process that involves input from the design team and the Diocesan Institution leadership. The criteria for the selection includes specific experience on similar projects, past performance on Diocesan projects, technical expertise, financial considerations and connection to the Parish or Institution. Prior to extending an invitation to bid or conducting any preliminary work, all bidders must be approved by the Diocesan Building and Property Office.

Sealed bids shall be received and opened at the Parish, School, Diocesan Institution or other location approved by the Buildings and Property Office. All bids must remain sealed prior to the bid opening and placed in a secure area designated by the institutional leadership. A representative of the Buildings and Property Office must be present at all bid openings that have an estimated cost of \$50,000 or more.

5. Contact the Buildings and Property Office to see if a review by the Diocesan Building Commission is required depending on the scope, cost or complexity of the proposed project.
6. Final approval by the Bishop is required prior to the start of the project.

**DIOCESAN BUILDING COMMISSION** The Diocesan Buildings and Property Office will oversee and facilitate the construction / renovation process from the moment a project is approved by the Bishop to the time the project is completed and occupied. The Diocesan Building Commission receives its charge from the Bishop and is tasked with protecting the interests of the Bishop, the Diocese and the parish. Specifically, the Diocesan Building Commission must be consulted on construction and renovation projects that:

Exceed \$50,000 in total project cost.

Involve either an architect, structural engineer, or other professional consultant.

In addition to the project cost and the need for a design professional, the Buildings and Property Office may determine that a review by the Diocesan Building Commission is required. This will be based on other project criteria including, scope, complexity, or other unique consideration that represent significant liability issues for the Diocese.



## Insurance Repairs and Restoration to Real Property

**INSURANCE WORK:** If the repair or replacement is due to accident or weather related damage, report the occurrence to the Diocesan Insurance Company and the Buildings and Property Office.

**Catholic Mutual 1-800-228-6108**

**Diocesan Buildings and Property Office  
859-392-1500**

Emergency repairs to damaged Diocesan property should be done immediately to a level that will protect the struc-

ture and/or building contents. The Buildings and Property Office and the Finance Office should be notified immediately of the situation and any potential insurance claim.

After the area is secured and protected from further damage, the requirements for Professional Design Services, Repairs, Renovation and Construction must be followed and are subject to the competitive bidding. See pages 13, 15, 17 and 19 for more detail. **This work is to be coordinated through the Buildings and Property Office.**

### After Damage Checklist

**STEP 1** **Follow contact procedures above.** If the repair or replacement is due to accident or weather related damage, report the occurrence to the Diocesan Insurance Company and the Buildings and Property Office.

**Catholic Mutual 1-800-228-6108**

**Diocesan Buildings and Property Office 859-392-1500**

**STEP 2** **Secure the site.**

**STEP 3** **After responsible authority (Fire, Police, Building Inspector) authorizes reentry to building, proceed with the following steps.**

**STEP 4** **Contact professionals to survey critical building systems including: building structure, roof, windows, doors, security alarms, fire alarms, fire suppression systems, electrical systems, mechanical systems, etc. Make repairs as needed to prevent further damage.**

**STEP 5** **Survey the damage and document with pictures from a digital camera.**

**STEP 6** **Begin salvage operation as soon as possible to prevent further damage.**



# Property Acquisition, Alienation and Leasing

## PROPERTY DISPOSAL

Any request to sell, lease, license, assign, transfer, donate, raze, exchange, barter, grant right-of-way or easement, or otherwise alienate property must be approved by the Bishop. The Buildings and Property Office must be contacted to review the proposed transaction and all contracts and legal documents must be signed by the Bishop.

## ALIENATION

Any request for property alienation must be submitted to the Buildings and Property Office for Review and approved by the Bishop.

## PROPERTY PURCHASED BY PARISH OR SCHOOL

All requests for purchase of adjacent buildings or properties must be approved by the Bishop. The Buildings and Property Office must be contacted to review the proposed transaction and all contracts and legal documents must be signed by the Bishop.

## THE DEED

The deed for property purchased by a Parish, School or Diocesan Institution is to be filed under the following legal ownership:

**Most Reverend Roger J. Foys, D.D.**  
**Roman Catholic Bishop of the Diocese of Covington**  
**and his successors in Office**  
**1125 Madison Avenue**  
**Covington, Kentucky 41011**

## LEASES

When a parish, school, or Diocesan Institution wishes to enter into an agreement with an outside group for a long-term use of property it must be done on a written lease that defines the roles and responsibilities of each party so there is no disagreement later should an issue arise. Leases will not be granted to organizations that do not share the same teachings of the Catholic Church. All proposed lease agreements must be submitted to the Buildings and Property Office for review and approved by the Bishop.





# Insurance Requirements

## DESIGN PROFESSIONAL

The design professional must carry the following coverages with minimum limits as shown:

**Commercial General Liability** — \$1,000,000 per occurrence limit.

**Commercial Automobile Liability** — \$1,000,000 combines single limit for all owned, hired, and borrowed vehicles.

**Worker's Compensation** — Statutory basis for Kentucky and Employers Liability limit of at least \$500,000 each accident; \$500,000 each employee by disease; \$500,000 policy limit for disease.

**Professional Liability** — \$1,000,000.00

## CONTRACTOR

The Contractor must carry the following coverages with minimum limits as shown:

### **Commercial General Liability:**

\$2,000,000 General Aggregate  
\$2,000,000 Products/Completed  
Operations Aggregate  
\$1,000,000 Personal or Advertising Injury  
\$1,000,000 Each Occurrence Including  
Contractual Liability Coverage

### **Commercial Automobile Liability**

\$1,000,000 Combined Single Limit Including All  
Owned, Hired, and Borrowed Vehicles Workers'  
Compensation-Statutory basis for Kentucky

### **Employers Liability:**

\$500,000 Bodily Injury by Accident-Each Accident;  
\$500,000 Bodily Injury by Disease-Each Employee;  
\$500,000 Bodily Injury by Disease-Policy Limit.

## CONTRACTOR continued

### **Umbrella or Excess Liability:**

\$2,000,000 for all projects over \$1,000,000.

### **Builders Risk:**

Provided by Contractor as part of Bid.

### **Policy Holder:**

Most Reverend Roger J. Foys, D.D.  
Roman Catholic Bishop of the Diocese of Covington  
and his successors in Office  
1125 Madison Avenue  
Covington, KY 41011

### **Builders Risk:**

Provided by Contractor as part of bid.

### **Cancellation Notice:**

All policies to provide a 30-day cancellation notice to the policy holder.

### **Subrogation:**

The Contractor's contract shall include an express waiver of subrogation as against the Diocese of Covington.

### **Hold Harmless:**

The contracts of all professionals shall contain an agreement to indemnify and hold harmless the Diocese of Covington against all claims arising out of the professional's performance of the contract.



## **Contracts for Design and Construction**

### **Contracts for Professional Design Services**

**AIA B 101 2007** — Standard Form of Agreement  
Between Owner and Architect

**AIA 201 2007** — General Conditions of the Con-  
tract for Construction

The AIA documents referenced above are to be prepared by Diocesan Legal counsel and must be processed through the Diocesan Buildings and Property Office.

### **Contract for Construction**

Depending on scope of project one of the following contracts will be used.

**AIA 101 2007** — Standard Form of Agreement  
Between Owner and Contractor

The Diocesan Standard Agreement between Owner and Contractor is included in this Procedures Manual and must be processed through the Diocesan Buildings and Property Office.



# Agreement Between Owner and Contractor

Diocese of Covington



**THIS AGREEMENT** is made as of the \_\_\_\_\_ Day of \_\_\_\_\_ in the year of \_\_\_\_\_.

**THE OWNER:** Most Reverend Roger J. Foy, D.D.  
Bishop of the Diocese of Covington

**A CORPORATION SOLE**  
1125 Madison Avenue  
Covington, KY 41011

**FOR AND ON BEHALF OF:** \_\_\_\_\_  
Parish / School / Diocesan Institution

**AND**

**CONTRACTOR:** \_\_\_\_\_

**PROJECT NAME:** \_\_\_\_\_

**ARCHITECT:** \_\_\_\_\_

**The Owner and Contractor agree as set forth below.**

## ARTICLE I

### THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement and the other documents described in Article 8 hereof. These documents form the Contract and are as fully a part of the Agreement as if attached to this Agreement or repeated herein. This Agreement represents the entire and integrated agreement between the parties hereto and super-

sedes prior negotiations, representations or agreements, either written or oral.

## ARTICLE 2

### THE WORK OF THIS CONTRACT

The contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others.

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DIOCESE OF COVINGTON

# Agreement Between Owner and Contractor

## ARTICLE 3

### DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

**3.1** The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the owner.

**3.2** Unless the date of commencement is established by a notice to proceed issued by the Owner, the Contractor shall notify the Owner in writing not less than five (5) days before commencing the Work.

**3.3** The Contractor shall achieve Substantial Completion of the entire Work not later than \_\_\_\_\_ subject to adjustments of this Contract Time as provided in the Contract Documents.

## ARTICLE 4

### CONTRACT SUM

**4.1** The Owner shall pay the Contractor in current funds for the contractor's performance of the Contract the Contract Sum of \$ \_\_\_\_\_ subject to additions and deductions as provided in the Contract Documents.

**4.2** The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner.

**4.3** Unit prices, if any, are as follows: \_\_\_\_\_

## ARTICLE 5

### APPLICATIONS FOR PAYMENT

**5.1** At the first weekly job site meeting of the month, the Contractor shall provide the Owner for review (a) an Application for Payment, including the Contractor's sworn statement of value of the work for which payment is sought, indicating the percentage of completion of the Work as of the end of the period covered by the Application for Payment, and the Contractor's waiver of lien, using a form required by the Owner and covering work for the preceding month for which the Contractor seeks payment and (b) waivers of lien for each of its subcontractors and sub-subcontractors of any tier, including waivers of lien of any material man, for all of the work of those subcontractors and sub-subcontractors paid for by the Owner pursuant to prior Applications for Payment.

**5.2** Each Application for Payment shall be based upon the Schedule of Values submitted by the Contractor in accordance with the Contract Documents. The Schedule of Values shall allocate the Contract Price among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the Architect or Owner may require. The Schedule of Values, unless objected to by the Architect or Owner, shall be used as the basis for reviewing each Application for Payment.

**5.3** Within (7) seven days of receipt of the Application for Payment, the Owner shall either issue its Certificate for Payment for such amount as the Architect and Owner shall determine is properly due or notify the Contractor in writing of the Owner's reasons for withholding certification in whole or in part as provided in Paragraph 9.5.1 of the General Conditions.

## Agreement Between Owner and Contractor

**5.4** The Owner shall pay the Contractor no later than thirty (30) days of receipt by the Owner of the Application for Payment that portion of the amount sought by the Application for Payment which the Owner determines in its sole discretion to be properly due, subject the Contractor's compliance with the provisions of this Article and the other requirements of the Contract Documents, less a deduction of ten percent from the amount approved for payment by the Owner.

**5.5** Subject to the other provisions of the Contract Documents, the Owner shall make final payment to the Contractor of all unpaid amounts of the Contract Price no later than thirty (30) days following the issuance of the Architect's or Owner's final Certificate for Payment.

### ARTICLE 6

#### MISCELLANEOUS PROVISIONS

**6.1** Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

**6.2** Contractor's obligations and undertakings pursuant to Paragraph 11.1 and Article 12 of the General Conditions, shall survive any termination of the Contract or any suspension of the Work.

**6.3** The Architect shall provide to the Contractor all necessary reproductions, drawings and specifications for bidding or for construction at no additional cost to the Contractor.

**6.4** The Contractor shall furnish to the Owner a copy of the certificate of insurance required by Article 11 of the General Conditions as an attachment to the copy of this Agreement executed by it at the time of delivery of the executed copy to the Owner.

### ARTICLE 7

#### TERMINATION OR SUSPENSION

**7.1** The contract may be terminated by the Owner or the Contractor as provided in Article 13 of the General Conditions.

**7.2** The Work may be suspended by the Owner as provided in Article 13 of the General Conditions.

### ARTICLE 8

#### ENUMERATION OF CONTRACT DOCUMENTS

**8.1** The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

**8.1.1** General Conditions are the General Conditions of the Contract for Construction for the Diocese of Covington current edition.

**8.1.2** The Supplementary and other Conditions of the Contract are those contained in the Project Manual and as follows:

Document Title Pages: \_\_\_\_\_

## Agreement Between Owner and Contractor

**8.1.3** The Specifications are those contained in the Project Manual are as follows:

Section Title Pages: \_\_\_\_\_

**8.1.4** The Drawings are as follows, and are dated unless a different date is shown below.

Number Title Date: \_\_\_\_\_

**8.1.5** Addenda, if any, are as follows:

Number Date Pages: \_\_\_\_\_

**8.1.6** Other documents, if any, forming part of the Contract Documents are as follows:

\_\_\_\_\_

**This agreement entered into as of the day and year first written above.**

### CONTRACTOR:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Most Reverend Roger J. Foys, D.D.  
Bishop of the Diocese of Covington**

\_\_\_\_\_  
**Signed**

\_\_\_\_\_  
**Title**

\_\_\_\_\_  
**Signed**



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# General Conditions of the Contract for Construction

## ARTICLE 1

### GENERAL PROVISIONS

*These General Conditions are intended to be used with agreement between Owner and Contractor (20142 Edition).*

#### 1.1 DEFINITIONS

**1.1.1** The Contract Documents consist of the Agreement between Owner and Contractor (the "Agreement"), these General Conditions of the Contract, any Supplementary and other Conditions enumerated in the Agreement, Drawings, Specifications, any addenda issued prior to execution of the Contract, and other documents listed in the Agreement and Modifications issued after execution of the Agreement. A Modification in (1) a written amendment to the Contract (as defined in Paragraph 1.1.2) signed by both parties, (2) a Change Order, or (3) a Written Change Directive. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (including without limitation advertisement or invitation to bid, instructions to Bidders, sample forms, the Contractor's bid or portions of addenda relating to bidding requirements.)

**1.1.2** The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor, or (3) between any persons or entities other the Owner and Contractor.

**1.1.3** "Architect" means the person lawfully licensed to

practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative.

**1.1.4** "Claim Condition" means an event, occurrence, condition, direction, instruction or decision which the Contractor has reason to believe has given rise or may give rise to the right to either an increase in the Contract Price or an extension of the Contract Time.

**1.1.5** "Contractor" means the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

**1.1.6** "Contract Time" means the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

**1.1.7** The date of commencement of the Work is the date established in the Agreement.

**1.1.8** The term "day" means calendar day unless otherwise Specifically defined.

**1.1.9** "Drawings" means the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

**1.1.10** "Oral Change Directive" means an oral communication given by the Owner to the Contractor which changes, or to the Contractor's reasonable understanding may change, the work required by the Contract Documents.

## General Conditions of the Contract for Construction

**1.1.11** "Owner" means the Catholic Bishop of Covington Kentucky, a corporation sole. In these General Conditions, the term "Owner" shall also mean the Owner's authorized representative as identified by the Owner in writing as such.

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

**1.1.13** "Project" means the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner or by separate contractors.

**1.1.14** "Samples" means physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

**1.1.15** "Shop Drawings" means drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a subcontractor to illustrate some portion of the Work.

**1.1.16** "Specifications" means that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards, and workmanship for the Work and performance of related services.

**1.1.17** "Subcontractor" means any person or entity either (a) employed or engaged by a person or entity having a contract with the Contractor or (b) performing or furnishing or supplying any portion of the Work, other than at the request of the Owner or the Architect, including without limitation material and equipment suppliers and the agents or employees of any such person or entity.

**1.1.18** "Submittals" means any or all of the following: Shop Drawings, Product Data and Samples.

**1.1.19** The term "Substantial Completion" means that the Work or designated portion thereof, as certified by the Architect or owner in accordance with Paragraph 9.7, is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

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

**1.1.21** "Written Change Directive" means a written order prepared by the Architect and authorized by the Owner directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Price or Contract Time.

## 1.2 EXECUTION, CORRELATION AND INTENT

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

**1.2.2** The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

**1.2.3** Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings, shall not control the Contractor in dividing the Work among

# General Conditions of the Contract for Construction

Subcontractors or in establishing the extent of Work to be performed by any trade.

**1.2.4** Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such meanings recognized in the Covington Area.

**1.2.5** In the event of conflict among the Contract Documents, the Drawings and Project Specifications shall take precedence over less specific descriptions of the Work. Large-scale Drawings shall take precedence over small-scale Drawings covering the same subject matter; but the Drawings shall not take precedence over the Specifications, nor the Specifications precedence over the Drawings. If the Drawings and Specifications are at variance with one another, the Contractor shall at once so notify the Owner in writing before proceeding with any part of the Work which is or which may be affected by the variance. The Owner will promptly resolve the discrepancy so as not to delay, if possible, the Work and shall give written instructions on how to proceed to the Contractor. The decision of the Owner as to which is correct shall be final and conclusive. If the Contractor fails to give notice of such variance, any corrective work required shall be done at Contractor's sole expense.

## 1.3 USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

**1.3.1** The Drawings, Specifications and other documents prepared by the Architect are instruments of the Architect's service through which the Work to be executed by the Contractor is described. The Contractor may retain one contract record set. Neither the Contractor nor any Subcontractor shall own or claim a copyright in the Contract Documents.

The Drawings, Specifications and other documents prepared by the Architect, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner. The Contractor and Subcontractors are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect appropriate to and for use in the execution of their Work under the Contract Documents.

## 1.4 INTERPRETATION

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

## ARTICLE 2

### OWNER

## 2.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

**2.1.1** The Owner shall furnish to the best of its ability (a) surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site and (b) reports prepared by the Owner describing the Owner's actual knowledge of the presence of any asbestos materials or of any underground storage tanks located on the site where the Work is to be performed.

## **General Conditions of the Contract for Construction**

**2.1.2** Except for permits and fees which are the responsibility of the Contractor under the Contract Documents, the Owner shall secure with any assistance of the Architect or others, and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

**2.1.3** Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of Drawings and Specifications as are reasonably necessary for execution of the Work.

### **2.2 OWNER'S RIGHT TO STOP THE WORK**

**2.2.1** If the Contractor fails to correct Work as required by Paragraph 13.2 or persistently fails to carry out Work in accordance with the Contract Documents, the Owner, by written order signed by the Owner, may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. However, the Owner's right to stop the Work shall not give rise to a duty on the part of the Owner to exercise the right for the benefit of the Contractor or any other person or entity.

### **2.3 OWNER'S RIGHT TO CARRY OUT THE WORK**

**2.3.1** If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within forty-eight (48) hours after the Owner's transmission of a written notice to the Contractor to commence and complete correction of such default or neglect with diligence and promptness, the Owner may, after such forty-eight hour period, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the cost of correcting

such deficiencies, including compensation for the Architect's additional services, attorneys' fees, and expenses made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall promptly pay the difference to the Owner.

## **ARTICLE 3**

### **CONTRACTOR**

#### **3.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR**

**3.1.1** The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner pursuant to Paragraph 2.1.1 and shall at once report in writing to the Architect errors, inconsistencies or Omissions discovered. The Contractor shall not be liable to the owner for damage resulting from errors, inconsistencies or omissions in the Contract Documents unless the Contractor should have recognized such error, inconsistency or omission and failed to report the same promptly to the Architect. If the Contractor performs any construction activity involving an error, inconsistency or omission in the Contract Documents Contractor should have recognized, without such notice to the Architect, the Contractor shall assume responsibility for such performance and shall pay the attributable costs for correction.

**3.1.2** The Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. Errors, inconsistencies or omissions discovered shall be reported in writing to the Architect at once.



## General Conditions of the Contract for Construction

**3.1.3** The Contractor shall perform the Work in accordance with the Contract Documents and Submittals approved pursuant to Paragraph 3.11.

### 3.2 SUPERVISION AND CONSTRUCTION PROCEDURES

**3.2.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

**3.2.2** The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees and Subcontractors.

**3.2.3** The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Contractor.

**3.2.4** The Contractor shall be responsible for inspection of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work.

### 3.3 LABOR AND MATERIALS

**3.3.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of

the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

**3.3.2** The Contractor shall enforce strict discipline and good order among the Contractor's employees and Subcontractors. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

**3.3.3** The Contractor shall pay fair and equitable wages in accordance with geographical area standards so as to maintain labor harmony and the project.

### 3.4 WARRANTY

**3.4.1** The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform with the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This Warranty is not limited by the provisions of Paragraph 13.2.

### 3.5 TAXES

**3.5.1** The Contractor shall pay any sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted when bids are received

## General Conditions of the Contract for Construction

or negotiations concluded, whether or not yet effective or merely scheduled to go into effect. It is Owner's belief that the Work is subject to sales tax.

### 3.6 PERMITS, FEES AND NOTICES

**3.6.1** Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work which are customarily secured after execution of the Agreement and which are legally required when bids are received or negotiations concluded. The Contractor agrees to use its best efforts to cause permit and governmental fees to be waived.

**3.6.2** The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities bearing on performance of the Work.

**3.6.3** It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Architect and Owner in writing.

**3.6.4** If the Contractor performs Work Contractor should have known to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without such notice to the Architect and Owner, the Contractor shall assume full responsibility for such performance and shall bear the attributable costs for correction.

### 3.7 ALLOWANCES

**3.7.1** The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities and the Owner may direct.

**3.7.2** Unless otherwise provided in the Contract Documents:

- .1 Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation Costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum and not in the allowances;
- .3 Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under clause 3.7.2.1 and (2) changes in Contractor's costs under clause 3.7.2.2.

### 3.8 SUPERINTENDENT

**3.8.1** The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Communications shall be confirmed in writing by the Owner on written request.

## General Conditions of the Contract for Construction

### 3.9 CONTRACTORS' CONSTRUCTION SCHEDULES

**3.9.1** The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits required by the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project and shall provide for expeditious and practicable execution of the Work.

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

**3.9.3** The Contractor shall conform to the most current schedules.

### 3.10 DOCUMENTS AND SAMPLES AT THE SITE

**3.10.1** The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, addenda, approved Submittals, Change Orders and other Modifications, in good order and marked currently to record changes and selections made during construction. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work.

### 3.11 SUBMITTALS

**3.11.1** Unless otherwise expressly provided by the Contract Documents, the Contractor shall review, approve and submit to the Architect all Submittals required by the Contract Documents for the Architect's review. Submittals are not Contract

Documents. The purpose of the submittal is to demonstrate, for those portions of the Work for which Submittals are required, the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents.

**3.11.2** The Contractor shall deliver the Submittals to the Architect with reasonable promptness, in accordance with the schedule of Submittals, and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals made by the Contractor which are not required by the Contract Documents may be returned without action.

**3.11.3** The Contractor shall perform no portion of the Work requiring Submittals and review of Shop Drawings, Product Data, Samples or similar submittals until the respective Submittal has been approved by the Architect. Such Work shall be in accordance with approved Submittals.

**3.11.4** By making Submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents.

**3.11.5** The Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's review or approval of Submittals unless the Contractor has specifically informed the Architects and the owner in writing of such deviation at the time of submittal and the Architect and the Owner have given written approval to the specific deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Submittals by the Architect's review or approval thereof.

## **General Conditions of the Contract for Construction**

**3.11.6** The Contractor shall direct specific attention in writing on resubmitted Submittals to revisions other than those requested by the Architect on previous submittals.

**3.11.7** Informational Submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents.

**3.11.8** When professional certification of performance criteria of materials, systems or equipment is required by the Contract Documents, Contractor warrants to the Owner the accuracy and completeness of such calculations and certifications.

### **3.12 USE OF SITE**

**3.12.1** The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

### **3.13 CUTTING AND PATCHING**

**3.13.1** The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

**3.13.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the owner by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner except with written consent of the Owner. The Contractor shall not unreasonably withhold from the Owner the Contractor's consent to cutting or otherwise altering the Work.

### **3.14 CLEANING UP**

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

**3.14.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

### **3.15 ACCESS TO WORK**

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

## **ARTICLE 4**

### **ADMINISTRATION OF THE CONTRACT**

#### **4.1 OWNER ACTION**

**4.1.1** Duties, responsibilities and limitations of authority of the Architect as set forth in the contract Documents shall not be restricted, modified or extended without written consent of the Owner.

**4.1.2** In case of termination of employment of the Architect, the Owner may appoint an architect whose status under the Contract Documents shall be that of the Architect.

# General Conditions of the Contract for Construction

## 4.2 ARCHITECT'S ADMINISTRATION OF THE CONTRACT

**4.2.1** The Architect will provide administration of the Contract during the construction phase, and as required during the project punch out and close out phase described in Paragraph 13.2.

**4.2.2** The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the completed Work.

**4.2.3** The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Paragraph 3.2.

**4.2.4** Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate through the Architect. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors shall be through the Contractor. Communications with any separate Owner's contractor shall be through the Owner or Architect, as directed by the Owner.

**4.2.5** Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

**4.2.6** The Architect will have authority to reject Work which does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable for implementation of the intent of the Contract Documents, the Architect

will have authority to require additional inspection or testing of Work in accordance with Paragraph 16.5, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor or Subcontractors.

**4.2.7** The Architect will review and approve or take other appropriate action upon the Contractor's Submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken with such reasonable promptness and in accordance with the Contractor's approval schedule of Submittals as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Paragraphs 3.3, 3.4 and 3.11. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**4.2.8** The Architect will prepare Change Orders and Construction Change Directives.

**4.2.9** The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date

## General Conditions of the Contract for Construction

of final completion, will receive and forward to the Owner, for the Owner's review and approval and records, written warranties and related documents required by the Contract and assembled by the Contractor, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

**4.2.10** Unless otherwise provided in the Contract Documents, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. Such representative shall visit the site, during the construction on the Work as may be required by Owner.

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

**4.2.12** Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings.

### 4.3 CLAIMS FOR ADDITIONAL COMPENSATION OR CONTRACT TIME.

**4.3.1** Subject to and in accordance with the other provisions of the Contract Documents, should the Contractor believe that it is entitled to any increase in the Contract Price or further Contract Time, the Contractor shall, pursuant to this Paragraph 4.3, first notify the Owner of such claim and present the claim to the Owner for review and evaluation.

**4.3.2** The Contractor shall notify the Owner in writing of every Claim Condition. The Contractor's notice to the Owner

must be delivered to the Owner's Representative within forty-eight (48) hours of the time that the Contractor either knew or should have known of the Claim Condition upon which the Contractor's claim is or will be based. The notice shall include the Contractor's good faith assessment of the impact of the Claim Condition on the Work and the Contractor's best estimate, based upon the information available and to the nature of the claim.

**4.3.3** With respect to each claim, the Contractor shall keep each day a separate record identifying the labor hours worked, machinery and equipment hours utilized, and the material expanded or incorporated into the Work because of the Claim Condition. These records shall be delivered to the owner on a daily basis.

**4.3.4** As soon as reasonably practicable and based upon its own investigation of the Claim Condition and other information available to it, the Owner will deliver to the Contractor its written evaluation of the claim stating whether, the Owner agrees with the Contractor's claim in whole or in part. To the extent that the Owner agrees with the claim, the Owner will prepare an appropriate Change Order for the Contractor's execution. The Contractor's execution of the Change order shall constitute the Contractor's acceptance of the Owner's evaluation.

**4.3.5** Should a Claim Condition involve any third party, the Contractor agrees to provide to the Owner all information and assistance either necessary or desirable to present the Contractor's claim to the third party for payment; however, the Owner shall not be obligated to so present the claim.

**4.3.6** Neither the issuance of a Written Change Directive nor any claim, dispute, or controversy between the Contractor and the Owner or between the Contractor and any other person or entity shall excuse the Contractor, except as



## General Conditions of the Contract for Construction

otherwise provided by the Contract Documents or as permitted by the Owner in writing, from complying with the Contract Documents or from proceeding diligently with the performance of the Work.

**4.3.7** Failure of the Contractor to comply with the requirements of this Paragraph shall constitute a waiver, on all grounds, for any claim arising out of or related to a Claim Condition.

### **4.3.8 NO DAMAGES FOR DELAY.**

**4.3.8.1** The Owner shall not be liable to the Contractor for any damages due to delay in the performance of the Contractor's Work whatsoever which may be suffered by the Contractor (or for which the Contractor may become liable), including, without limitation, any delay caused by any acts, omissions, or negligence on the part of the Owner, its agents, employees, representatives, Indemnities as described in Paragraph 12.1, independent contractors, or any other party or due to any other cause and which arise from, or are in any way related to, any aspect of the Project or of the Work, including but not limited to, engineering design, construction, inspection, installation, testing or use of the Work as completed. The term "damages" as used in this Paragraph 4.3.8 shall include any type of damages that are or could be awarded by any court or arbitration panel, as such, by way of general example but not limitation, tort damages, contract damages, strict liability damages, liquidated damages, and/or punitive damages. By way of specific example, and not limitation, "damages" may include loss of use, loss of profits, repair, cost of capital, replacement, loss of wages, pain and suffering, loss or production cost loan, loan of use, decrease in value, and/or any other item of damage or loss.

**4.3.8.2** This Paragraph 4.3.8 shall be effective to limit the

Owner's liability whether or not the Owner is at fault, wholly or partially, actively or passively, (1) for any degree of negligence; (2) for any breach and/or negligent breach of contract, implied or express; (3) for nuisance and/or in strict liability; and/or (4) without limitation, for any acts or omission which may be the subject of causes of action not listed here. This Paragraph shall take precedence over any other Paragraph of the Contract Documents in the event of conflict with such Paragraph.

**4.3.9** Without limiting the scope of Paragraph 4.3, the Contractor agrees to make no claim against the Owner, the Indemnities as described in Paragraph 12.1 or those whom might have a cause of action against the Owner for damages due to delay in the performance of this Agreement occasioned by any act or omission to act of the Owner, its present and future officers, employees, agents, other contractors, and persons, and entities acting on their behalf, and agrees that any such delay shall be fully compensated for by an extension of the Contract Time to complete performance of the Work as provided in the Contract Documents.

### **4.4 PROJECT MEETINGS**

**4.4.1** The Contractor shall conduct weekly Progress meetings at the job site to be attended by representatives of the Contractor, the Architect, the Owner, the Subcontractors, and such other persons as required. The Contractor shall keep minutes of each weekly Project meeting and circulate the minutes of the Project meeting to the Owner, the Architect, the Subcontractors and such other persons as appropriate within 7 days of each of Project meeting. The Contractor shall keep current logs showing the disposition of all requests for information, proposed change orders and change orders, shop drawings, amounts for contingencies, amounts for

# General Conditions of the Contract for Construction

allowances, and shared savings and current copies of each such log shall be distributed at each weekly Project meeting by the Contractor.

**4.4.2** Once a month, and at the designated Project meeting, the Contractor shall deliver to the Owner and Architect the applications for payment, waivers of lien, and such other documents required by the Contract Documents, including those required by Article 9 of the General Conditions, and the current CPM schedule.

## ARTICLE 5

### SUBCONTRACTORS

#### 5.1 AWARD OF SUBCONTRACTS

**5.1.1** Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, through the Architect, the names of Subcontractors proposed for each principal portion of the Work. The Architect will promptly inform the Contractor in writing if the Owner has any objection to any proposed Subcontractor. Failure of the Owner to reply promptly shall constitute notice of lack of objection.

**5.1.2** The Contractor shall not contract with a Subcontractor to whom the Owner has made timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

**5.1.3** If the Owner has objection to a Subcontractor proposed by the Contractor, the Contractor shall propose another to whom the Owner has no objection. The Contract Sum shall be increased or decreased by the difference in Cost occasioned by such change and an appropriate Change

Order shall be issued. However, no increase in the Contract Sum shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

**5.1.4** The Contractor shall not change a Subcontractor previously selected if the Owner makes objection to such change.

#### 5.2 SUBCONTRACTUAL RELATIONS

**5.2.1** By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by term of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor, that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless Specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. The Contractor shall require each Subcontractor to enter into similar agreements with Subcontractor's Subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective Subcontractors.



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## 5.3 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

**5.3.1** Each Subcontract agreement for a portion of the Work in assigned by the Contractor to the Owner provided that:

- .1 assignment in effective only after termination of the Contract by the Owner for cause pursuant to Paragraph 15.2 and only for those Subcontract agreements which the owner accepts by notifying the Subcontractor in writing and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

**5.3.2** The Owner shall not be responsible for Contractor obligations incurred, accrued, or arising prior to the termination of the Contract.

## ARTICLE 6

### CONSTRUCTION BY OWNER

#### 6.1. OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

**6.1.1** The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces and to award separate contracts in connection with other portions of the Project or other construction or operations on the site. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Paragraph 4.3.

**6.1.2** The Owner shall provide for coordination of the activities of the Owner's own forces or of its separate contractors with the Work of the Contractor, who shall cooperate with them.

## 6.2 MUTUAL RESPONSIBILITY

**6.2.1** The Contractor shall afford the Owner reasonable opportunity for introduction and storage of Owner's or its separate Contractors' materials and equipment and performance of their activities and shall connect and coordinate the Contractor's construction and operations with Owner or its contractors.

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

**6.2.3** The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner.

## ARTICLE 7

### CHANGES IN THE WORK

#### 7.1 CHANGES IN GENERAL

**7.1.1** Changes in the Work may be accomplished after execution of the Contract Agreement, and without invalidating the Contract, by Change Order or Written Change Directive subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

## General Conditions of the Contract for Construction

**7.1.2** Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly with the changes unless otherwise provided in the Change Order or Written Change Directive.

**7.1.3** A Change Order shall be based upon the written agreement among the Owner and the Contractor. A Written Change Directive Shall be used in the absence of total agreement on the terms of a Change Order.

### 7.2 WRITTEN CHANGE DIRECTIVE PROCEDURE

**7.2.1** The Owner may by Change Directive order changes in the work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Price and Contract Time being adjusted accordingly.

**7.2.2** If the Written Change Directive provides for an adjustment to the Contract Price, the adjustment shall be based on one of the following methods:

- (a) mutual agreement of the Owner and Contractor,
- (b) Unit Prices stated in the Contract Documents or subsequently agreed upon, or
- (c) cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee.

If Unit Prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are so changed in a proposed Change Order or Written Change Directive that application of such Unit Prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable Unit Prices shall be equitably adjusted.

**7.2.3** If the Written Change Directive provides for an adjustment to the Contract Time, the adjustment shall be based on one of the following methods:

- (a) mutual agreement of the Owner and the Contractor, or
- (b) the Contractor's records which demonstrates the amount of time spent by the Contractor in performing the change which was not concurrent with either the Contractor's performance of the original Contract Work or any delay for which the Contractor is responsible.

**7.2.4** Upon receipt of a Written Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Owner in writing of the Contractor's agreement or disagreement with either the adjustment in or the method provided in the Written Change Directive for determining the proposed adjustment in the Contract Price or Contract Time.

**7.2.5** A Written Change Directive signed by the Contractor indicates the Contractor's agreement with the Directive, including the adjustment in Contract Price and Contract Time, or with the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

**7.2.6** If the Contractor does not promptly sign the written Change Directive, or disagrees with either the adjustment in or the method for adjustment in the Contract Price, the method and the adjustment shall be determined by the Owner on the basis of reasonable costs and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Price, the allowance for overhead and profit at the rates provided in the Contract Agreement. In such case, the Contractor shall keep and pres-

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ent an itemized accounting of costs together with appropriate supporting data. Costs for the purposes of this Paragraph shall be limited to the following:

- (a) costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workmen's compensation insurance,
- (b) costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed,
- (c) rental costs of machines and equipment, exclusive of hand tools, whether rented from the Contractor or others,
- (d) costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work, and
- (e) additional Costs of supervision and field office personnel directly attributable to the change.

When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of the net increase in Compensation, if any, with respect to that change.

### 7.3 ORAL CHANGE DIRECTIVE PROCEDURE.

**7.3.1** No Oral Change Directive shall be valid or operative unless given by Owner which is confirmed within twenty-four (24) hours in writing by the Owner in the form of a Written Change Directive. An Oral Change Directive which has not been so confirmed shall not serve as the basis for any claim by the Contractor for increased or additional compensation or time.

**7.3.2** If the Contractor receives an Oral Change Directive and if that Directive is not confirmed in writing to the Contractor's reasonable satisfaction, then the Contractor shall confirm the Oral Change Directive in a writing delivered to the Owner. The Contractor's written confirmation shall state that the Contractor prefers not to proceed with either the activities required or the portion of the Work affected by the Oral Change Directive until the Owner issues a Written Change Directive.

**7.3.3** An Oral Change Directive confirmed by the Owner under either Paragraph 7.3.1 or 7.3.2, above, shall be deemed to be a Written Change Directive.

**7.3.4** Should the Owner refuse to confirm an Oral Change Directive by the issuance of a Written Change Directive, the Contractor shall immediately proceed with the Work the Contractor believes is the subject of the Oral Change Directive, and the Contractor shall make any claim for increased or additional compensation or time pursuant to Article 4 of these General Conditions.

**7.3.5** Nothing in this Paragraph 7.3 shall be construed to prevent or preclude the Contractor from taking action in the event of an emergency within the meaning of Paragraph 10.3.

## ARTICLE 8 TIME

### 8.1 PROGRESS AND COMPLETION

**8.1.1** Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

## General Conditions of the Contract for Construction

**8.1.2** The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor. The date of commencement of the Work shall not be ruled by the effective date of such insurance. Unless the date of commencement is established by a notice to proceed given by the owner, the Contractor shall notify the Owner in writing not less than five days or other agreed period before commencing the Work.

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

### 8.2 DELAYS AND EXTENSIONS OF TIME

**8.2.1** If the Contractor is delayed at any time in the progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

**8.2.2** Claims relating to time shall be made in accordance with applicable provisions of Paragraph 4.3.

**8.2.3** The Contractor agrees to make no claim for damages for delay in the performance of the Work occasioned by any delay described in Paragraph 8.2 or otherwise against the Owner or against any person or entity who or which as a matter of law could assert a claim against the Owner and agrees that any such delays shall be fully compensated for by an extension of time to complete performance of the Work for such reasonable time as the owner, in its sole discretion,

may determine.

**8.2.4** If, in the Owner's opinion, the Contractor or any of its Subcontractors causes a delay in the performance of the Work, the Contractor shall upon written notice from Owner, develop a plan for mitigating the delay and submit the plan to Owner for its review and information. Owner shall have the right to modify the plan. The Contractor shall comply with and implement the plan as approved or modified by the Owner, including but not limited to, adding additional workers and working overtime. Failure to comply with and to implement the plan as approved or modified by the Owner shall constitute a breach of this Contract. The Owner's review or modification of the plan shall not be construed as consent to such delay or a modification of the date for Substantial Completion. Contractor acknowledges and agrees that it shall have no right or claim to additional compensation for any action it might take to cause the Work to meet the most recent schedule for the performance of the Work and regardless of whether or not the owner approved or modified the plan.

## ARTICLE 9

### PAYMENTS AND COMPLETION

#### 9.1 CONTRACT SUM

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

#### 9.2 SCHEDULE OF VALUES

**9.2.1** Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated

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to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

### 9.3 APPLICATIONS FOR PAYMENT

**9.3.1** Each Application for Payment shall be notarized and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require and reflecting retainage if provided for elsewhere in the Contract Documents.

**9.3.1.2** Such Applications may not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor or material supplier because of a dispute or other reason.

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

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

### 9.4 CERTIFICATES FOR PAYMENT

**9.4.1** The Owner will, within seven days after receipt of the Contractor's Application for Payment, either issue Certificate for Payment, for such amount as the Owner determines is properly due, or notify the Contractor in writing of the Owner's reasons for withholding certification in whole or in part as provided in Paragraph 9.5.

### 9.5 DECISIONS TO WITHHOLD CERTIFICATION

**9.5.1** The Owner may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner. If the Owner is unable to certify payment in the amount of the Application, Owner will notify the Contractor as provided in Paragraph 9.4.1. If the Contractor and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount for which the Owner believes should be certified. The Owner may also decide not to certify payment or, because of subsequently discovered evidence or subsequent observations, may nullify the whole

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or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Owner's opinion to protect the Owner from loss because of:

- .1 defective Work not remedied,
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims,
- .3 failure of the Contractor to make payments properly to Subcontractors,
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum,
- .5 damage to the Owner or another contractor,
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay, or
- .7 persistent failure to carry out the Work in accordance with the Contract Documents.

**9.5.2** When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

### 9.6 PROGRESS PAYMENTS AND ACCEPTANCE

**9.6.1** After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents.

**9.6.2** The Contractor shall promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor, a portion of the Work, the amount to which the Subcontractor

is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor, a portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to the Subcontractor's subcontractors in similar manner.

**9.6.3** Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

**9.6.4** A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents. Without limiting its rights and remedies, the Owner specifically reserves the right to reimburse itself for any loss or cost incurred or which may be incurred because of any failure of the Contractor to satisfy its Obligations under the Contract Documents from any amount previously approved by the Owner for payment on account of the Work.

**9.6.5** The making of final payment shall constitute a waiver of claims by the Owner except those arising from:

- .1 liens, claims, security interests or encumbrances arising out of the Contract and unsettled,
- .2 failure of the Work to comply with the requirements of the Contract Documents, or
- .3 terms of special warranties required by the Contract Documents.

### 9.7 SUBSTANTIAL COMPLETION

**9.7.1** Substantial completion is the stage in the progress of the Work when the Work or designated portion thereof is



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sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use.

**9.7.2** When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not in accordance with the requirements of the Contract Documents, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. The Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion. When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, subject to the Owner's review and written approval, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor.

**9.7.3** Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor, certification by the Architect, and agreement by the owner, the Owner shall make payment, reflecting adjustment in retainage, if any, for such Work or portion thereof as provided in the Contract Documents.

### 9.8 PARTIAL OCCUPANCY OR USE

**9.8.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Paragraph

**9.8.2.** Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by the Owner.

**9.8.2** Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

**9.8.3** Unless otherwise agreed in writing by the Owner, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

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## 9.9 FINAL COMPLETION AND FINAL PAYMENT

**9.9.1** Upon receipt of written notice from the Contractor that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, and the other documents required by paragraph 9.9.2, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Owner will promptly issue a final Certificate for Payment which means, among other things, that to the best of the Owner's knowledge, information and belief, and on the basis of the Architect's observation and inspections, the work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said final Certificate is due and payable. The Owner's final Certificate for Payment will constitute a further representation that conditions listed in Paragraph 9.9.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

**9.9.2** Prior to final inspection by the Architect, the Contractor shall deliver the following to the Owner and the Architect.

- .1 Two sets for the Owner and one set for the Architect of the record drawings for the Project noted with deviations from the Contract Documents and including sketches provided to the Contractor by the Architect.
- .2 Certificate of occupancy.
- .3 Completed punchlist approved by the Architect and Owner.
- .4 Two sets for the Owner of binders containing warranties, operating instructions and description of material and equipment installed in the Project.

- .5 Subject to paragraphs 9.6.5.1 and 9.9.4, final waivers of lien from the Contractor, Subcontractors, supplies and any other person or firm who furnished labor and/or material for the Project, except for laborers.

**9.9.3** Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled, modified, or allowed to expire until at least 30 days, prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), other data establishing payment or satisfaction of obligations, including, without limitation, releases and waivers of liens, claims, security interests or encumbrances of the Contractor and its subcontractors of any tier, including materialmen, arising out of the Contract, to the extent and in such form as designated by the Owner.

**9.9.4** Acceptance of final payment by the Contractor or a Subcontractor shall constitute a waiver of all claims by that payee except those previously made in writing and identified by the payee in the payee's written application for payment as unsettled at the time of final Application for Payment and acknowledged in writing by the Owner at the time of final payment as being unsettled.



# General Conditions of the Contract for Construction

## ARTICLE 10

### PROTECTION OF PERSONS AND PROPERTY

#### 10.1 SAFETY PRECAUTIONS AND PROGRAMS

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

**10.1.2** In the event the Contractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB) or other environmentally toxic material which has not been rendered harmless, the Contractor shall immediately stop work in the area affected and report the condition to the Owner and Architect in writing. The Work in the affected area shall not thereafter be resumed except by written agreement of the owner and Contractor if in fact the material is asbestos or polychlorinated biphenyl (PCB) or other environmentally toxic material and has not been rendered harmless. The Work in the affected area shall be resumed in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless, by written direction of the Owner.

**10.1.3** The Contractor shall not be required pursuant to Article 7 to perform without consent any Work relating to asbestos or polychlorinated biphenyl (PCB) or other environmentally toxic material.

**10.1.4** Based upon the Contractor's representation made at Paragraph 1.2.1, the Contractor understands and agrees for itself and for its Subcontractors that it, prior to the commencement of Work, has made its own investigation, in conjunction with the information provided by Owner pursuant to Paragraph 2.1.1, of the possible presence of asbestos or Polychlorinated biphenyl (PCB) or other environmentally toxic materials.

#### 10.2 SAFETY OF PERSONS AND PROPERTY

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

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

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

**10.2.3** The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

**10.2.4** When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

## General Conditions of the Contract for Construction

**10.2.5** The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Paragraphs 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, or by anyone for whose acts they may be liable, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Article 12.

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

**10.2.7** The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

### 10.3 EMERGENCIES

**10.3.1** In an emergency affecting safety of persons or property the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Paragraph 4.3 and Article 7.

## ARTICLE 11

### INSURANCE AND BONDS

#### 11.1 CONTRACTOR'S LIABILITY INSURANCE

**11.1.1** The Contractor shall purchase from and maintain

in a company or companies with an A.M. Best rating of at least A-VI lawfully authorized to do business in the jurisdiction in which the Project is located and satisfactory to the Owner and such insurance shall protect the Contractor from claims set forth below which may rise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the 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:

- .1 claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other the Contractor's employees;
- .4 claims for damages insured by usual personal injury liability coverage which are sustained (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Contractor, or (2) by another person;
- .5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; and
- .7 claims involving contractual liability insurance applicable to the Contractor's obligations.

## General Conditions of the Contract for Construction

**11.1.2** The insurance required by Subparagraph 11.1.1 shall be written for not less than limits of liability specified below or required by law, whichever coverage is greater and shall name the Owner and the Parish as additional insured on a primary and non-contributory basis by causing amendatory riders or endorsements to be attached to the Contractor's insurance policies:

1. Commercial General Liability Insurance: (for Contract Price \$1,000,000 or less)

Bodily Injury/Property Damage/Personal Injury:

\$1,000,000.00 Each Occurrence

\$2,000,000.00 Aggregate

Bodily Injury:

\$1,000,000.00 Each Occurrence

\$2,000,000.00 Aggregate

Property Damage:

\$1,000,000.00 Each Occurrence

\$2,000,000.00 Aggregate

Personal Injury:

\$1,000,000.00 Each Occurrence

\$1,000,000.00 Aggregate

2. Completed Operations and Product Liability: Maintain for five (5) years after final payment: (for Contract Price \$1,000,000 or less)

Bodily Injury:

\$1,000,000.00 Each Occurrence

\$1,000,000.00 Aggregate

Property Damage:

\$1,000,000.00 Each Occurrence

\$1,000,000.00 Aggregate

Personal Injury:

\$1,000,000.00 Each Occurrence

\$1,000,000.00 Aggregate

3. Automobile Liability Insurance: This insurance must include non-owned, hired, or rented vehicles as well as owned vehicles: (for Contract Price \$1,000,000 or less)

Bodily Injury:

\$1,000,000.00 Each Occurrence

\$1,000,000.00 Aggregate Property Damage:

\$1,000,000.00 Each occurrence

4. Umbrella liability policy in follow form and to provide the same coverages as provided for comprehensive general liability, completed operations and product, automobile and employers liability with a minimum \$2,000,000 (two million dollars) limit of liability.

5. Workers' Compensation, applicable federal and state Statutory Limits Employer's Liability \$500,000.00

**11.1.2.1** XCU exclusions shall be removed from all policies under this Contract and coverage with limits set forth herein before. For coverages listed under items (1), (2) and (3) of Subparagraph 11.1.2 above, all stated limits shall be increased by \$1,000,000 if the Contract Price exceeds \$1,000,000. Coverages, shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment. The insurance policies, amendatory riders or endorsements required pursuant to Subparagraphs 11.1.2 shall state that the coverages afforded by the Contractor shall be primary and non-contributory in all respects to any insurance carried independently by the Owner.

**11.1.2** The Contractor shall furnish to the Owner, with delivery of the copy of the Contract between the Owner and Contractor executed by the Contractor and as an attachment to the Contract, certificates of insurance acceptable to the Owner. These Certificates and the insurance policies required

## General Conditions of the Contract for Construction

by this Paragraph 11 shall contain a provision that coverages afforded under the policies will not be cancelled, amended, or allowed to expire until at least 30 days' prior written notice has been given to the Owner. The certificates shall have attached to them, prior to filing, true and correct copies of the amendatory endorsements or riders required by this Paragraph 11 and stating that there shall be severability of interests with respect to the Owner and Architect under the coverages afforded. For insurance coverages 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. The Contractor shall furnish to the Owner information concerning reduction of coverage with reasonable promptness in accordance with the Contractor's information and belief. Upon written request from the Owner, the Contractor shall furnish to the Owner full and complete photocopies of all insurance policies, endorsements and riders.

**11.1.3** The Contractor shall require each of its Subcontractors to comply with the provisions of this paragraph 11.1 to the same extent as the Contractor is bound thereby.

### 11.2 BUILDER'S RISK

**11.2.1** For roofing projects with an initial cost of \$100,000 and for all other projects with an initial cost of \$500,000 or more, the Contractor shall purchase and maintain builders' risk property insurance in the amount of the Contract Price, as adjusted by subsequent modifications, for the entire work at the site on a replacement cost basis without any voluntary deductibles. Such property insurance shall be maintained, until final payment has been made as provided in paragraph 9.9 or until no person or entity other than the Owner has an insurable interest in the property required by this paragraph 11.2.1 to be covered, whichever is earlier. This insurance shall

include the interests of the Owner, the Contractors and the Subcontractors in the Work, and shall be assignable to Owner at Owner's direction.

**11.2.2** Builder's risk insurance shall be on an all risk completed value policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage theft, vandalism, malicious mischief, collapse, false work, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's services and expenses required as a result of such insured loss.

**11.2.3** If the builder's risk insurance requires minimum deductibles and such deductibles are identified in the Contract Documents, the Contractor shall pay the costs of the deductibles.

**11.2.4** Unless otherwise provided in the Contract Documents, the builder's risk insurance shall cover portions of the Work stored off the site and in transit after written approval of the Owner at the value established in the approval, and also portions of the Work in transit.

**11.2.5** The Owner and Contractor waive all rights against each other and any of their Subcontractors, agents and employees, the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their Subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this Paragraph 11.2 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the Subcontractors, by appropriate

## General Conditions of the Contract for Construction

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. The foregoing waiver by the Owner shall be effective only to the extent that the Owner receives payment for such damages and shall not operate as a waiver of any claims of the Owner not compensated in full by such insurance.

### 11.3 PERFORMANCE BOND AND PAYMENT BOND

**11.3.1** The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

**11.3.2** Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

harmless the Owner, its present and future officers, employees, agents (hereinafter collectively and severally referred to as the "Indemnities") and the Owner's interest in any property, from and against any and all claims liabilities, disputes, obligations, liens, encumbrances, causes of action, settlements, costs and expenses, including without limitation any claims for attorneys' fees or other litigation expenses, arising, or allegedly arising, from any negligent or other wrongful errors, acts or omissions of the Contractor, its Subcontractors, agents, employees, and consultants, due to personal injury, including death, property damage, including loss of use thereof, economic loss, or otherwise occurring, or alleged to have occurred, in whole or in part in connection with the Project and/or the Contractor's performance of this Agreement, whether any act, error, omission, or negligence of any Indemnity contributed thereto, except for the sole negligence of any Indemnity. The sole negligence of any Indemnity shall not bar the recovery of any other Indemnity hereunder. This indemnification provision is in addition and cumulative to any other right of indemnification or contribution which any of the Indemnities may have in law, at equity, or otherwise, and shall survive final completion of the Project and the Contractor's performance under this Agreement.

**12.2** In the event that applicable law prohibits enforcement of this Article as written, then this Article shall be modified to provide the maximum indemnification allowable to the Indemnities under applicable law.

## ARTICLE 12 INDEMNIFICATION

**12.1** To the fullest extent permitted by law and without limiting any of the Contractor's obligations under this Agreement, the Contractor shall indemnify, defend and hold

## ARTICLE 13

### UNCOVERING AND CORRECTION OF WORK

#### 13.1 UNCOVERING OF WORK

**13.1.1** If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed

## General Conditions of the Contract for Construction

in the Contract Documents, it must, if required in writing by the Architect or Owner, be uncovered for the Architect's and Owner's observation and be replaced at the Contractor's expense without change in the Contract Time.

**13.1.2** If a portion of the Work has been covered which the Architect has not specifically requested to observe prior to its being covered, the Architect or Owner may request to see such Work and it shall be uncovered by the Contractor. If such Work in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be charged to the Owner. If such Work is not in accordance with the Contract Documents, the Contractor shall pay such costs unless the condition was caused by the Owner in which event the Owner shall be responsible for payment of such costs.

### 13.2 CORRECTION OF WORK

**13.2.1** The Contractor shall promptly correct Work rejected by the Architect or Owner as failing to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby.

**13.2.2** If, within one year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties established under Paragraph 9.7.2, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the owner to

do so unless the owner has previously given the Contractor a written acceptance of such condition. This one-year period shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work. This obligation under this Subparagraph

**13.2.2** shall survive acceptance of the Work under the Contract and termination of the Contract. The Owner shall give such notice after discovery of the condition.

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

**13.2.4** If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct in accordance with Paragraph 2.3. If the Contractor does not proceed with correction of such nonconforming Work within a reasonable time fixed by written notice from the Architect or Owner, the Owner may remove it and store the salvable materials or equipment at the Contractor's expense. If the Contractor does not pay costs of such removal and storage within ten days after written notice, the Owner may upon ten additional days written notice sell such materials and equipment at auction or at private sale and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's and attorney's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, the Contract Sum shall be reduced by the deficiency. If payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.



## General Conditions of the Contract for Construction

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

**13.2.6** Nothing contained in Paragraph 3.2.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the time period of one year as described in Paragraph 13.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### 13.3 ACCEPTANCE OF NONCONFORMING WORK

**13.3.1** If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## ARTICLE 14

### DISPUTE RESOLUTION

**14.1** All claims, disputes or other matters in question or controversy arising out of or relating to this Agreement or breach thereof may, at the Owner's election, may first be subject to and decided by a meeting between the Contractor and the Owner.

**14.2** In the event any claim, dispute or other matter in question or controversy arising out of or relating to this Agreement or breach thereof is not resolved at the meeting between the Contractor and the Owner, or in the event the Owner elects not to hold a meeting as provided for in paragraph 14.1, the Parties, at the Owner's election, shall endeavor to settle disputes by mediation in accordance with the Construction Industry Mediation and Arbitration Rules of the American Arbitration Association currently in effect. Demand for mediation shall be filed in writing with the other Party to this Agreement and with the American Arbitration Association. A demand for mediation shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for mediation be made after the date when institution of legal, equitable, or arbitration proceedings as provided in Paragraph 14.3 based on such claim, dispute or other matter in question would be barred by the applicable statute of repose.

**14.3** The Owner may, at its election, submit claims, disputes or other matters in question between the Parties to the Agreement arising out of or relating to this Agreement or breach thereof for arbitration in accordance with the Construction Industry Mediation and Arbitration Rules of the American Arbitration Association. The Owner's participation in any meeting to or mediation to settle any disputes shall not be a condition precedent to the Owner electing to arbitrate any disputes. Demand for arbitration shall be filed in writing with the other Party to this Agreement and with the American Arbitration Association. A demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of repose.

## General Conditions of the Contract for Construction

**14.4** An arbitration pursuant to this Article 14 may be joined with an arbitration involving common issues of law or fact between a Party to this Agreement and any person or entity with whom that Party has a contractual obligation to arbitrate disputes. No other arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a Party to this Agreement, except by written consent containing a specific reference to this Agreement signed by the Parties to this Agreement and any other person or entity sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the Parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

**14.5** The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

**14.6** The Contractor hereby waives any statute of limitations or statute of repose applicable to any claim of the Owner for breach of this Agreement, including, without limitation, the obligations of the Contractor under Article 12.

### ARTICLE 15 MECHANICS LIENS

Contractor shall at all times keep the Work, including any interest of the Owner in any property, free from, and clear of, all mechanics liens and other encumbrances of its Subcontractors,

material suppliers and other persons or entities making a claim by reason of having provided labor, materials or equipment related to the Work. Contractor shall hold harmless, defend and indemnify Owner from any claim, demand, liabilities, suits, causes of action, judgments, costs and expenses, including attorney's fees and other litigation costs, related in any manner whatsoever to any mechanics lien or other encumbrance made or filed against the Work or the interest of the Owner in any property, by any of its Subcontractors, material suppliers or any other persons or entities making a claim by reason of having provided labor, materials or equipment related to the Work, including, without limitation, any suit to foreclose any mechanics lien. Owner, at its option, may withhold from any payments due the contractor an amount not to exceed one-and-one-half times the amount of any mechanics liens and other encumbrances of any Subcontractors, material suppliers or other persons or entities making a claim by reason of having provided labor, materials or equipment related to the Work.

## ARTICLE 16

### TERMINATION OR SUSPENSION OF THE CONTRACT

#### 16.1 TERMINATION BY THE CONTRACTOR

**16.1.1** The Contractor may terminate the Contract if the Work is stopped for a period of 30 days through no act or fault of the Contractor for any of the following reasons:

- .1 issuance of an order of a court or other public authority having jurisdiction, or
- .2 an act of government, such as a declaration of national emergency, making material unavailable.

**16.1.2** If one of the above reasons exists, the Contractor may, upon seven additional days, written notice to the Owner



## General Conditions of the Contract for Construction

and Architect, terminate the Contract and recover from the Owner payment for Work executed.

### 16.2 TERMINATION BY THE OWNER FOR CAUSE

#### 16.2.1 Termination for Default.

**16.2.1.1** The Owner may, by mailing or otherwise delivering written notice to the Contractor and its surety, if any, immediately terminate the Contract:

- (i) if the Contractor files a voluntary petition under any chapter of the United States Bankruptcy Code as now or thereafter in effect, or if a petition is filed against the Contractor under any chapter of the United States Bankruptcy Code as now or hereafter in effect at the time of filing, or if any petition filed by or against the Contractor is converted to a Chapter 11 proceeding under the Bankruptcy Code, and the Contractor's Trustee or the Contractor as debtor-in-possession fails to assume this Contract, within the meaning of Paragraph 15.2.1.2, below, within fifteen (15) days from the date of filing such petition or conversion,
- (ii) if the Contractor files a voluntary petition relating to bankruptcy or insolvency or if a petition is filed seeking any such equivalent or similar relief against the Contractor under any state law in effect at the time relating to bankruptcy or insolvency,
- (iii) if the Contractor makes a general assignment for the benefit of creditors,
- (iv) if a trustee, receiver, custodian or agent of the Contractor is appointed under applicable law or under contract, whose appointment or authority to take charge of property of the Contractor is for the purpose of general Administration of such property for the benefit of the Contractor's creditors,
- (v) if the Contractor admits in writing an inability to pay its debts generally as they become due,
- (vi) if the Contractor persistently fails to perform the Work in accordance with the Contract Documents,
- (vii) if the Contractor violates any law, ordinance, rule, regulation, or order of any public authority having jurisdiction over the Work,
- (viii) if the Contractor either threatens to abandon or abandons the Work, or
- (ix) if the contractor, without good cause shown, failed to satisfy any of its or their obligations under the Contract Documents, then the Owner may, without prejudice to any right or remedy and without being liable to the Contractor for trespass or conversion, take possession of the site and of all materials, equipment, tools, machinery, appliances, and plants thereon owned by the Contractor and, where appropriate, by its Subcontractors, and may finish the Work by whatever method owner may deem appropriate. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the costs to the owner of finishing the Work, including compensation for the Owner's additional services and attorneys' fees made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive the termination of the Contract.

## General Conditions of the Contract for Construction

**16.2.1.2** To be effective, any election to assume the Contract by the Contractor's Trustee or the Contractor, as debtor-in-possession, must be in writing addressed to the Owner and, in the Owner's business judgment, all of the following conditions, which the Contractor understands and agrees are commercially reasonable, must have been satisfied:

- (i) the Trustee or the Contractor, as debtor-in-possession, shall have cured or shall have provided to the Owner adequate assurance that all monetary defaults under the Contract will be cured within ten (10) days from the date of assumption and all nonmonetary defaults under the Contract will be cured within twenty (20) days from the date of assumption, and
- (ii) the Trustee or Contractor, as debtor-in-possession, shall have provided the Owner with adequate assurance of the future performance of each of the Contractor's obligations under the Contract.

For purposes of this Paragraph 15.2.1.2, the term "adequate assurance" means that the Owner shall have determined that the Trustee or the Contractor, as debtor-in-possession, has and will continue to have sufficient unencumbered assets, after the payment of all secured obligations and administrative expenses, to assure the Owner that the Trustee or the Contractor, as debtor-in-possession, will have sufficient funds to satisfy Contractor's obligations timely under the Contract, including but not limited to keeping in full force and effect all bonds and retaining all Subcontractors currently employed for any portion of the Work.

**16.2.2** When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's

surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor,
- .2 accept assignment of subcontracts Pursuant to Paragraph 5.3, and
- .3 finish the Work by whatever reasonable method the Owner may deem expedient.

**16.2.3** When the Owner terminates the Contract for one of the reasons stated in Subparagraph 15.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

**16.2.4** If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and other expenses made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Architect, upon application, and this obligation for payment shall survive termination of the Contract.

### 16.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

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

**16.3.2** An adjustment shall be made for increases in the costs of performance of the Contract, including profit on the

# General Conditions of the Contract for Construction

increased cost of performance, caused by suspension, delay or interruption. No adjustment shall be made to the extent:

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

**16.3.3** Adjustments made in the cost of performance may have a mutually agreed fixed or percentage fee.

## **16.4 TERMINATION BY THE OWNER FOR CONVENIENCE**

**16.4.1** The owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

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

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

**16.4.3** In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed and costs incurred by reason of such termination, but the Contractor shall not be entitled to receive any payment for the Work not executed, including overhead and profit.

## **PROJECT PLANNING AND CONSTRUCTION**

# **PROCEDURES MANUAL**

DIOCESE OF COVINGTON

## **ARTICLE 17**

### **MISCELLANEOUS PROVISIONS**

#### **17.1 GOVERNING LAW**

**17.1.1** The Contract shall be governed by the law of the State of Kentucky.

#### **17.2 SUCCESSORS AND ASSIGNS**

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

#### **17.3 WRITTEN NOTICE**

**17.3.1** Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if sent by registered or certified mail, or otherwise transmitted, to the last business address known to the party giving notice.

#### **17.4 RIGHTS AND REMEDIES**

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

## General Conditions of the Contract for Construction

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

### 17.5 TESTS AND INSPECTIONS

**17.5.1** Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so the Architect may observe such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

**17.5.2** If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Paragraph 16.5.1, the Architect will upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so the Architect may observe such procedures. The Owner shall bear such costs except as provided in Paragraph 16.5.3.

**17.5.3** If such procedures for testing, inspection or approval under Paragraphs 16.5.1 and 16.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, the Contractor shall bear all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses.

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

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

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

### 17.6 CONSEQUENTIAL DAMAGES

**17.6.1** In no event shall either Party be liable to the other for any special, incidental or consequential damages, including, but not limited to, loss of income, loss of revenue, loss of profits, loss of use, loss of capital, rental expenses, financing, reputation, overhead expenses, or interest, whether based on contract, tort, negligence, strict liability, or otherwise and arising from any cause whatsoever by performance under this Agreement or breach of this Agreement.

# Work Notification Form

Diocese of Covington



To be Submitted Seven (7) Days Prior to Commencing Work to the Buildings and Property Office  
Attention Don Knochelmann via FAX: (859) 392-1589 or e-mail: [dknochelmann@covdio.org](mailto:dknochelmann@covdio.org)

Date: \_\_\_\_\_

Parish or

Property: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

This Project Is: ☐ Maintenance

☐ Replacement / Upgrade

☐ New Construction

Square Footage: \_\_\_\_\_

Project Description: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Does this project represent a change to how the current space is utilized?

☐ No ☐ Yes Please explain \_\_\_\_\_

\_\_\_\_\_

Does this project involve a change or modification to a place of Worship?

☐ No ☐ Yes Please explain \_\_\_\_\_

\_\_\_\_\_

Estimated Cost: \$ \_\_\_\_\_ (Attach Bids)

(Attached Summary of Bids)

Funding Source: \$ \_\_\_\_\_

Anticipated Schedule: \_\_\_\_\_

## OFFICIAL USE

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PROJECT PLANNING AND CONSTRUCTION

PROCEDURES **MANUAL**

DIOCESE OF COVINGTON

Work Notification Form



# Quarterly Report of Construction Project

Diocese of Covington



Quarter Ended: \_\_\_\_\_

## FUNDRAISING

Capital fundraising monies raised for the project \$ \_\_\_\_\_

Less: Uncollectible Pledges (\_\_\_\_\_)\_\_\_\_\_

Net pledges to the project \_\_\_\_\_

Other funding available to the project:

Parish savings \_\_\_\_\_

Other (describe) \_\_\_\_\_

Total available found for the project \_\_\_\_\_

## PLEDGE REDEMPTION

Net pledges to the project \_\_\_\_\_

Funds received in fulfillment of pledges \_\_\_\_\_

Remaining pledges to be collected \_\_\_\_\_

## PROJECT COSTS

Total original estimated costs of project

(including fundraising, financing, interest,  
architectural, engineering, permits, etc.) \_\_\_\_\_

Additional costs (explain all changes) \_\_\_\_\_

Reduction in costs (explain all changes) \_\_\_\_\_

Current estimated total project cost \_\_\_\_\_





## Glossary of Construction Terms

### A

**Addendum** A supplement to documents, issued prior to taking receipt of bids, for the purpose of clarifying, correcting, or otherwise changing bid documents previously issued.

**Additional Services** Services provided in addition to those specifically designated as basic services in the agreement between the owner and Construction Manager (CM). Also known as Supplemental Services.

**Agency** A legal relationship by which one party is empowered and obligated to act on behalf of another party.

**Agency CM** A form of Construction Management performed in a defined relationship between the CM and owner. The agency form of Construction Management establishes a specific role of the CM acting as the Owner's principal agent in connection with the project.

**Agreement** A document setting forth the relationships and obligations between two parties, as the CM and owner or contractor and owner. It may incorporate other documents by reference.

**Apparent Low Bidder** The bidder who has submitted the lowest bid for a division of work described in bid documents, a proposal form, or proposed contract.

**Approved Bidders List** The list of contractors that have been prequalified for the purpose of submitting responsible, competitive bids.

**Approved Changes** Changes in the contract documents that have been subjected to an agreed upon change approval process and have been approved by the party empowered to approve such changes. *See also: Change Order*

**As-Built Drawings** Drawings (plans) that show the work, as actually installed. Also known as Record Drawings.

**At-Risk CM** A delivery method which entails a commitment by the construction manager to deliver the project within a Guaranteed Maximum Price (GMP). The construction manager acts as consultant to the owner in the development and design phases, but as the equivalent of a general contractor during the construction phase. When a construction manager is bound to a GMP, the most fundamental character of the relationship is changed. In addition to acting in the owner's interest, the construction manager also protects him/herself.

### B

**Basic Services** Scope of service as defined in the original agreement between owner and CM as basic services.

**Beneficial Occupancy** The use of the constructed facility by the owner prior to final completion of the construction.

**Bid** An offer to perform the work described in contract documents at a specified cost.

## Glossary of Construction Terms

**Bid Bond** A pledge from a surety to pay the bond amount to the owner in the event the Bidder defaults on its commitment to enter into a contract to perform the Work described in the Bid Documents for the bid price

**Bid Documents** The documents issued to the contractor(s) by the owner which describe the proposed Work and contract terms. Bid documents typically include: drawings, specifications, contract forms, general and supplementary general conditions, proposal or bid forms, and other information.

**Biddability** The degree to which a set of Bid Documents could be reasonably expected to permit a bidder to establish a competitive price to perform the Work as defined in the Bid Documents.

**Biddability Review** A formal review of the contract documents, addendum, and reference documents to eliminate ambiguities, errors, omissions, and contradictions, to be accomplished with respect to the local construction marketplace and the bid packaging strategy; for the purpose of minimizing bid prices in the procurement phase and disputes during construction.

**Bond** A pledge from a surety to pay the bond amount to the Obligee (owner or contractor) in the event of a default, or non-payment by a principal (contractor or subcontractor), as with Bid, Performance and Labor and Material Bonds.

**Bonus** Additional compensation paid or to be paid to a contractor by the owner as a reward for accomplishing predetermined objectives that are over and above the basic requirements of the contract between the owner and contractor.

**Budget** The dollar and time amount allocated by the owner for a project.

**Budget Estimate** An estimate of the cost of work based on preliminary information, with a qualified degree of accuracy.

## C

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**Change Order** A written agreement or directive between contracted parties which represents an addition, deletion, or revision to the contract documents, identifies the change in price and time and describes the nature (scope) of the work involved. Also known as Contract Modifications. *See also: Contract Modifications*

**Changed Conditions** Conditions or circumstances, physical or otherwise, which alter the conditions or circumstances on which the contract documents were based.

**Claim** A formal demand for compensation, filed by a contractor or the owner with the other party, in accordance with provisions of the contract documents.

**CM Fee** A form of contractual payment for services, where the CM is paid a fee for services performed.

**Code of Accounts** The owner's written description of the cost elements of the project, used for the owner's accounting purposes.

**Commissioning** Start up, calibration, and certification of a facility.

## Glossary of Construction Terms

**Constructibility** The ease with which a project can be built, based upon the clarity, consistency, and completeness of the contract documents for bidding, administration, and interpretation to achieve overall project objectives.

**Constructibility Reviews** The process of evaluating the construction documents for clarity, consistency, completeness, and ease of construction to achieve overall project objectives.

**Construction Budget** The sum established, normally during the planning or design phase, as available for construction of the project.

**Construction Cost** All costs attributed to the construction of the project, including the cost of contracts with the contractor(s), construction support items, general condition items, all purchased labor, material and fixed equipment. *See also: Cost of Construction*

**Construction Management** A professional service that applies effective management techniques to the planning, design, and construction of a project from inception to completion for the purpose of controlling time, cost and quality.

**Contingency** An amount of money reserved by the owner to pay for unforeseen changes in the work.

**Contract Modifications** A written agreement or directive between contracted parties which represents an addition, deletion, or revision to the contract documents, identifies the change in price and time and describes the nature (scope) of the work involved.

**Critical Date Schedule** A schedule representing important events along the path to project completion. All milestones may not be equally significant. The most significant are termed "major milestones" and usually represent the completion of a group of activities. *See also: Milestone Schedule*

**Critical Path Method (CPM)** A management technique used to plan and control a project which combines all relevant information into a single plan defining the sequence and duration of operations, and depicting the interrelationship of the Work elements required to complete the project. The critical path is defined as the longest sequence of activities in a network which establishes the minimum length of time for accomplishment of the end event of the project. Arrow Diagramming Method (ADM) and Precedence Diagramming Method (PDM) are both common techniques used in CPM scheduling.

## D

**Deficient Work** Work conforming to the plans, specifications, and applicable standards yet is incomplete, insufficient, or lacking in workmanship. *See also: Non-conforming Work.*

**Design Development (DD)** The term used on projects to describe the transition from the schematic phase to the completion of the design development phase. During this phase ancillary space is developed and dimensions are finalized. Outline specifications are developed into technical specifications; sections are

## Glossary of Construction Terms

delineated and elevations are defined. The size and character of the entire project are defined as to architectural, structural, mechanical, and electrical systems, materials and other essentials as may be appropriate; and prepares a statement of probable construction cost. *See also: Design Phase – Preliminary*

**Design Phase – Final** The phase of the design process on a project when drawings and specifications are completed for construction bid purposes. The phase is preceded by the preliminary design phase, and followed by the bid and award phase. The designation used by design professionals for the last part of the design process prior to bidding. Also known as Construction or Working Drawings.

**Design Phase – Preliminary** The term used on projects to describe the transition from the schematic phase to the completion of the design development phase. During this phase ancillary space is developed and dimensions are finalized. Outline specifications are developed into technical specifications; sections are delineated and elevations are defined. Also known as Design Development. *See also: Design Development*

**Design Phase – Schematic** Traditionally this is the first phase of a design professional's basic services. In the schematic phase, the design professional ascertains the requirements of the project and prepares schematic design studies consisting of drawings and other documents illustrating the scale and relationships of the project.

**Design Professional** The professional individual or organization that performs the design and prepares

plans and specifications for the work to be performed. The professional can be an architect, an engineer, or an organization which combines professional services.

**Design-Build** Design-Build is a project delivery method which combines architectural and engineering design services with construction performance under one contract agreement.

**Development Manager (DM)** Development Managers are construction professionals who work as Owner Representatives in large projects and also assist in construction cost estimating, project reporting and management. Development Managers also assist in limited Facility Needs Analysis and Funding Ability/Assessment. Please contact ACC Construction office for current DM listing.

**Direct Costs** The field costs directly attributed to the construction of a project, including labor, material, equipment, subcontracts and their associated costs.

**Drawings** Graphic representations showing the relationships, geometry and dimensions of the elements of the work.



**Estimated Cost to Complete** The current estimate of the remaining costs to be incurred on a project at a specific point in time.

## Glossary of Construction Terms

**Estimated Final Cost** The anticipated cost of a project or project element when it is complete. The sum of the cost to date and the estimated cost to complete.

### F

**Fast Track** The process of dividing the design of a project into phases in such a manner as to permit construction to start before the entire design phase is complete. The overlapping of the construction phase with the design phase.

**Facility Needs Analysis (or Site Analysis)** A visual inspection of a building and on-site improvements for functional or physical deterioration; prepare optional Replacement Cost Estimate for making recommendations to improve functional and physical deficiencies. This may be done by a Development Manager (DM). Contact ACC Construction office for assistance.

**FF&E** FF&E is an abbreviation for furniture, fixtures and equipment. Most specifically items classified as personal property rather than real property.

**Fiduciary** An individual or organization having duty, created by contract, to act primarily for the owner's benefit in respect to the trust and confidence involved in the duty and the scrupulous good faith and candor which it requires.

**Field Order** An order issued at the site by the owner or CM to clarify and/or require the contractor(s) to perform work not included in the contract documents.

A field order normally represents a minor change not involving a change in contract price or time and may or may not be the basis of a change order.

**Final Completion** The date on which the terms of all construction contracts have been satisfied.

**Float** Contingency time that exists on a schedule of activities. It is measured by comparing the early and late dates on a start and finish basis.

**Force Account** Directed work accomplished by the contractor outside of the contract agreement.

### G

**General Conditions** A section of general clauses in the Contract Specifications that establish how the project is to be administered. Included are obligations such as providing temporary work, insurance, field offices, etc.

**Guarantee** A legally enforceable assurance by a third party of satisfactory performance, quality or quantity of products or work during a specific period of time stated and included in the contract in the event the product or work fails to perform properly

**Guaranteed Maximum Price (GMP)** A contractual form of the Design-build system wherein the Contractor or CM establishes a not to exceed maximum price for the cost of the Work based on an agreed-to scope.

## Glossary of Construction Terms

### **Guaranteed Maximum Price Construction**

**Management** A contractual form of the Construction Management system wherein the CM establishes a maximum price for the cost of the Work based on an agreed-to scope.



**Lien, Mechanic's or Material** The right to take and hold or sell an Owner's property to satisfy unpaid debts to a qualified contractor for labor, materials, equipment or services to improve the property. *See Preliminary Lien Notice*

**Lien Release** A written document from the Contractor to the Owner that releases the Lien, Mechanic's or Material following it's satisfaction.

**Life Cycle Cost** Life cycle costs include all costs incident to the planning, design, construction, operation, maintenance and demolition of a facility, or system, for a given life expectancy, all in terms of present value.

**Liquidated Damages** An amount of money usually set on a per-day basis, which the contractor agrees to pay the owner for delay in completing the Work in accordance with the contract documents

**Long-Lead Items** The identification given to material and equipment having an extended delivery time and which may be considered for early procurement and purchase. Items which would be delivered too late for

timely installation if their procurement or purchase were included as part of the procurement for the entire contract or project.

**Long-Lead Time** The time interval between purchase and delivery of long-lead items.

**Low Bidder** The bidder who has submitted the lowest bid, which is determined to be responsive and responsible for a division of work described in a bid document, proposal form or contract.

**Lump Sum Fee** A fixed amount that includes the cost of overhead and profit paid, in addition to all other direct and indirect costs of performing work.



**Master Schedule** An executive level summary schedule identifying the major components of a project, their sequence and durations. The schedule can be in the form of a network, Milestone Schedule, or bar chart.

**Mechanics Lien** *See Lien*

**Milestone Schedule** A schedule representing important events along the path to project completion. All milestones may not be equally significant. The most significant are termed "major milestones" and usually represent the completion of a group of activities.

## Glossary of Construction Terms

**Multiple Prime Contracts** Separate contractors contracting directly with the owner for specific and designated elements of the work.

### N

**Non-Conforming Work** Work that does not meet the requirements of the contract documents.

**Notice of Award** A formal document informing an individual or organization of successfully securing a contract.

**Notice to Proceed** A formal document and/or point in the project's life cycle authorizing an individual or organization to commence work under its contract. The issuance of the notice to proceed typically marks the end of a procurement phase.

### O

**Owner** Although the individual parishes, school, or institutions define the need for each project, raise the funds and otherwise provide all the impetus required to "make the project happen", and are referred to as the "owner" in this Document, the official, **formal Owner is actually the Bishop of the Diocese of Covington.**

This fact stems from the Diocesan role as steward (and legal owner) of the real property and buildings within the Diocese, as well as the financial responsibility which the Diocese assumes when projects are funded, even though

the funds may be derived from local sources within the parish, school, or institution. Simply put, the courthouse records list the Bishop of Covington as the Owner.

**Owner Construction Management** A form of Construction Management that does not use an independent construction management organization as a team member. The owner performs all required Construction Management services with in-house staff.

**Owner's Representative** The individual representing the owner on the project team. Development Managers (DM) is the Owner's Representative on large projects.

### P

**Penalty** A punitive measure, usually associated with failure to fulfill a contractual obligation.

**Performance Bond** A pledge from a surety to pay the bond amount to the Obligee (owner or contractor) in the event of a default in performance of contractual obligations.

**Phased Construction** An incremental approach to construction or design and construction. Each overlapping or sequential phase or element to have a defined work scope and to be considered as a separate project.

**Plans** Also known as Drawings. *See also: Drawings*

**Post-Construction Phase** The period following substantial completion.



## Glossary of Construction Terms

**Pre-Design Phase** The period before schematic design commences, during which the project is initiated and the program is developed; the planning and conceptual phase.

**Preliminary Lien Notice (also 20-day preliminary notice)** A written notice given to the property Owner where a project is taking place, given by the subcontractors and any person or company furnishing services, equipment or materials to that project. The notice states if bills are not paid in full for the labor, services, equipment, or materials furnished or to be furnished, a mechanic's lien leading to the loss, through court foreclosure proceedings, of all or part of the property being improved may be placed against the property even though the Owner has paid the prime contractor in full. Please contact the ACC Construction office for assistance with Preliminary Lien Notices.

**Prime Contract** A direct contract with an owner. It can be a single contract and/or include the work specified for several contracts depending upon division of work.

**Pre-qualification Form** A screening process wherein the ACC gathers background information from a contractor or construction professional for selection purposes. Qualifying considerations include competence, integrity, dependability, responsiveness; work on hand, similar project experience, and other specific owner requirements.

**Prime Contractor** A contractor who has a contract with an owner.

**Professional Services** Services provided by a professional or by an organization that has specific competence in a field of endeavor that requires professional (and technical) knowledge and capabilities and that meets recognized standards of performance.

**Program Management** The practice of professional construction management applied to a capital improvement program of one or more projects from inception to completion. Comprehensive construction management services are used to integrate the different facets of the construction process - planning, design, procurement, construction and activation - for the purpose of providing standardized technical and management expertise on each project. *See also: Construction Management*

**Progress Meeting** A meeting dedicated to the subject of progress during any phase of project delivery.

**Progress Payment** Partial payment of the contract amount periodically paid by the owner, upon approval by the CM, verifying that portions of the Work have been accomplished.

**Project** The total effort required in all phases from conception through design and construction completion to accomplish the owner's objectives.

**Project Budget** The sum or target figure established to cover all the owner's costs of the project. It includes the cost of construction and all other costs such as land, legal and professional fees, interest, and other project-related costs.



**Project Cost** The actual cost of the entire project.

**Project Management** The use of integrated systems and procedures by a team of professionals during project design and construction. As applied to a construction project, Project Management can be used synonymously with Construction Management.

**Project Procedures Manual** A detailed definition of the project team responsibilities and authority, project systems, and procedures.

**Project Team** Initially consists of the owner, design professional, and CM. Thereafter, as prime construction contractors are engaged they are added to the Team.

**Project Team Meeting** A meeting dedicated to all aspects of the project, involving the project team members (owner, design professional, CM, contractor(s)).

**Punch List** A list made near the completion of the construction work indicating items of work that remain unfinished, do not meet quality or quantity requirements as specified or are yet to be performed by the contractor prior to completing the terms of the contract.

## Q

**Quality** The degree to which the project and its components meet the owner's expectations, objectives, standards, and intended purpose; determined by measuring conformity of the project to the plans, specifications, and applicable standards.

**Quality Assurance (QA)** The application of planned and systematic methods to verify that quality control procedures are being effectively implemented.

**Quality Control (QC)** The continuous review, certification, inspection, and testing of project components, including persons, systems, materials, documents, techniques, and workmanship to determine whether or not such components conform to the plans, specifications, and applicable standards.

**Quality Management** The process of planning, organization, implementation, monitoring and documenting of a system of policies and procedures that coordinate and direct relevant project resources and activities in a manner that will achieve quality.

*See also: Quality*

## R

**Record Drawings** Drawings (plans), prepared after construction is complete that represent the work, accomplished under the contract.

**Recovery Schedule** The schedule that depicts action(s) and special effort(s) required to recover lost time in the original Master Schedule. It can depict activities of any member of the project Team.

**Request for Information (RFI)** A written request from the Contractor to the Owner, Architect, or Engineer for clarification or information about the contract documents following contract award.

## Glossary of Construction Terms

**Request for Change Proposal** A delineation and/or narrative issued by the CM to the contractor that describes a proposed change to the contract documents for purposes of establishing cost and time impacts. May also be known as Bulletin, Request for Information, and Request for Quote.

**Request for Proposal (RFP)** A written request from the requestor (usually the Owner or a Contractor) to a contractor, Design professional, or Subcontractor for an estimate or cost proposal. The RFP usually contains a specific scope of work.



**Schedule of Values** A list of basic contract segments in both labor and material, where each line item consists of a description of a portion of work and a related cost and the sum of the lines of the contract equals the total contract price. Generally used to determine progress payments to contractor(s).

**Scope** Identification of all requirements of a project or contract.

**Scope Changes** Changes that expand or reduce the requirements of the project during design or construction.

**Shop Drawings** Drawings typically prepared by the contractor, based upon the contract documents and provided insufficient detail that indicate to the designer

that the contractor intends to construct the referenced work in a manner that is consistent with the design intent and the contract documents.

**Short-Term Construction Activity Plan** The planning and scheduling of prime contractor(s) activities on site, for the short duration or “foreseeable future” usually developed on a week-by-week basis using milestones for planning intervals and coordinated by Construction Management personnel. Also known as Rolling Schedule, Look Ahead Schedule, and Short Interval Schedule

**Special Conditions (of the Contract for Construction)** Also known as “Supplementary General Conditions”. *See also: Supplementary General Conditions*

**Special Professionals** The designation for various professionals, including engineers, architects, designers and other experts, who provide expertise in specialized fields.

**Specifications** The detailed written descriptions of materials, equipment, systems, and required workmanship and other qualitative information pertaining to the work.

**Start-Up** The period prior to occupancy when systems are activated and checked out, and the owner’s operating and maintenance staff assumes the control and operation of the systems.

## Glossary of Construction Terms

**Subcontractor (also known as 'Sub')** A contractor who has a contract with a prime contractor to perform work.

**Submittals** Transmittals of information as required by the contract documents.

**Substantial Completion** The date, certified by the design professional or CM or both, that a contractor has reached that stage of completion when the owner accepts use of the facility for its intended purposes, even though all work is not completed.

**Supplementary General Conditions** Additions and/or modifications to the General Conditions, which are part of the Bid Documents and/or contract documents.

### T

**Testing** The application of specific procedures to determine if work has been completed in the prescribed manner and at the required levels of workmanship. *See also: Non-conforming Work*

**Trade Contractors** Construction contractors who specialize in providing and/or installing specific elements of the overall construction requirements of a complete project.

**Trade-Off Study** The study to define the comparative values and risks of a substitution or exchange of a design component. The trade-off can identify both monetary and functional values. Also known as Alternatives Analysis.

### V

**Value Analysis** Also known as "Value Engineering". *See also: Value Engineering*

**Value Engineering** A specialized cost control technique, which utilizes a systematic and creative analysis of the functions of a project or operation to determine how best to achieve the necessary function, performance, and reliability at the minimum life cycle cost.

### W

**Warranty** Assurance by a party that it will assume stipulated responsibility for its own work.

**Work** All construction-incorporating labor, material and equipment required by the contract documents



## Restrictions on the Use of Volunteers

### Volunteer Workers

As a general rule, the use of parishioner volunteers performing construction services is discouraged. There may however be circumstances where an exception would be appropriate. This would require approval by the Buildings and Property Office on a case-by-case basis. Please note **that under no circumstances can the Parish/Diocesan Insurance Policy provide coverage for volunteer workers (including Worker's Compensation, Liability, and Medical coverage).**

**The use of volunteers to perform certain tasks creates an unacceptable level of liability risk**, whether the volunteers are qualified or not. The following guidelines present general loss control recommendations regarding limitations that should be placed upon the scope of volunteer services for construction, renovation and maintenance projects.

1. **From an insurance point of view**, contractors who donate services must be treated in the same manner as contractors who are being paid for their services. Therefore, it is in the best interest of both the Parish and the contractor who is donating services, to execute standard contracts for services to include insurance provisions that require the contractor to carry the appropriate coverage and to name the Parish and the Diocese as an Additional Insured on their insurance policy by endorsement.

2. **Before allowing volunteers to begin work on a job**, think about the hazards associated with the tasks. For example, does the job involve hazardous material, (lead paint, asbestos, chemicals, etc.) or require special equipment; is there a potential for falling or being struck by a falling objects; will very heavy objects need to be moved; is there a possibility for physical injury? Is this a job that would normally be performed by contractors with specialized equipment and skills? A "yes" answer to any of the above questions would indicate that volunteer labor is not appropriate for the task. The cost of a relatively minor injury to a volunteer could easily offset the cost of having a job done professionally.

3. **Special licensing requirements:** Many activities on a construction project require specialized training, certification and licensing. Some examples include, electrical work, boiler work, plumbing, HVAC, elevator work, lead paint remediation, asbestos abatement, etc. The use of volunteer labor for these activities is prohibited.

