

**Document 00 73 00 - Supplementary Conditions
(CM at Risk Contract)**

The Ohio State University
2009 Millikin Road, Room 400, Columbus, Ohio 43210



**Facilities Operations
and Development**

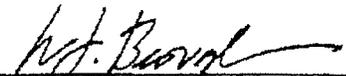
<http://fod.osu.edu>

v: 614.292.4458 • f: 614.292.2539

Certifications

These Supplementary Conditions amend and supplement the General Conditions and other provisions of the Contract Documents as indicated below. All provisions not amended remain in full force and effect. The terms in these Supplementary Conditions defined in the Contracting Definitions or the General Conditions shall have the meanings assigned to them in those documents.

These Supplementary Conditions are authorized for use on The Ohio State University's Projects using Construction Manager at Risk project delivery by the Ohio Department of Administrative Services:

By: 
Lane J. Beougher, AIA, FCSI
State Architect

Date: MAY 1, 2012

Contracting Authority

The Ohio State University
Facilities Operations and Development
400 Central Classroom Building
2009 Millikin Road
Columbus, Ohio 43210
614-292-4458
614-292-2539
<http://fod.osu.edu>

Institutional Designee

Bernard Costantino, AIA
University Architect

MODIFICATIONS TO GENERAL CONDITIONS

Insert Section 2.1.4.2.1 as follows:

- 1 Forms for the projects administered by The Ohio State University ("University") are available for download at <http://fod.osu.edu/vendor>.

Insert Section 6.3.3.3 as follows

6.3.3.3 Cutting and patching shall be done by craftspeople skilled in the type(s) of work involved. Refer to the specifications for detailed cutting and patching procedures.

Insert Sections 6.3.4.2, 6.3.4.3, and 6.3.4.4 as follows:

6.3.4.2 Columbus Campus: The University will not permit any Work to proceed until utility marking of University-owned utilities has been completed. The Construction Manager shall mail or fax its request to Service2Facilities. Clearly identify the area(s) to be marked and acknowledge acceptance of being billed for this service. Please provide: (1) the project number and name; (2) the CM's name and phone number; (3) the billing address and a contact person for the request; (4) the name of the person making the request; (5) location of the area to be marked; and (6) the name of the Project Manager. This request to mark the utility locations should be made by fax to Service2Facilities at 614.292.3389, or mailed to: Utility Marking Request, Service2Facilities, Fawcett Center, 2400 Olentangy River Road, Columbus, Ohio 43210. The



utilities will be marked within 72 hours of the acknowledgement of the request by the University, excluding weekends and University holidays. All costs shall be borne by the CM.

6.3.4.3 Regional Campuses: If the CM is performing work on a regional campus it shall coordinate with the campus facility manager on matters of utility protection and marking.

6.3.4.4 Off-Campus Facilities: If the CM is performing work on facilities not contiguous to a campus it shall coordinate with the appropriate facility manager and local public utilities on matters of utility protection and marking.

Insert Section 6.12.7 and subordinate Sections as follows:

6.12.7 Hardware.

6.12.7.1 Columbus Campus:

- 1 The CM shall be responsible for providing all permanent interchangeable lock cores and keys for the Project. The CM or its Subcontractor responsible for hardware ("Hardware Subcontractor") will be required to contract with the University Lock Shop for the installation of the permanent cores. The CM or its Hardware Subcontractor shall contact the University Lock Shop, 614.292.7693, which will develop the keys and cores into the key system designated by the user or users of that building. The CM or its Hardware Subcontractor shall also assist the University Lock Shop in developing the appropriate key system. Costs, if any shall be borne by the CM.
- 2 For projects located at the Medical Center, the Hardware Subcontractor shall coordinate with the Medical Center's Access Control Manager at 614.293.8412.

6.12.7.2 Regional Campuses: If the CM is performing work on a regional campus it shall coordinate with the campus facility manager on matters of keys and cores into the key system designated for the campus.

Replace Section 6.14.1.1 with the following:

6.14.1.1 The CM is responsible for designing and implementing its own safety program, including compliance with OSHA and other state and federal regulations. The CM's safety plans, such as fall protection, hazards, communications, competent person, etc., shall meet or exceed the University's safety plan. At the preconstruction meeting, the Project Manager and the CM will determine which plans need to be submitted for University review, comment, and approval.

Insert Section 6.14.1.2 as follows:

6.14.1.2 The University shall not accept any responsibility or liability for the safety of the CM's employees or managing the CM's safety program on the Project.

Insert Section 6.14.4.3 as follows:

6.14.4.3 The CM shall acquaint itself with and follow the University's established fire alarm procedures and the location of fire warning and extinguishing or control devices.

Insert Sections 6.14.6.3 and 6.14.6.4 as follows:

6.14.6.3 In addition to the MSDS notebooks required on Site, the CM shall provide the A/E with a copy of all MSDS. At the completion of the Project, the A/E will forward the MSDS to the University.

6.14.6.4 When a Hazardous Material is included in a Shop Drawing, the CM shall submit an MSDS with the Shop Drawing. Otherwise, the CM shall submit the MSDS at least 3 business days prior to the Hazardous Material being brought on Site.

Replace Section 6.17.5.1 with the following:

6.17.5.1 All University buildings are smoke free. Smoking will not be permitted in any indoor area. The Medical Center, Health Sciences Colleges contiguous to the Medical Center including Fry, Newton, Parks and Postle halls, as well as all Biological Sciences buildings (Aronoff Lab, Biological Sciences Building, Biological Sciences Greenhouse, General Biology Annex, Jennings Hall, and Riffe Building) are now

tobacco-free. The ban on all tobacco products will be observed in all indoor and outdoor areas and parking areas on the main medical center campus, University Hospital East, all other OSU Medical Center properties, and the buildings listed above. Contact: 614.293.4988 or 614.292.2800. The University's revised non-smoking policy (Policy #7.20) can be viewed at: <http://hr.osu.edu/policy/policy720.pdf>. The CM shall enforce these restrictions on any individual employed by the CM or its Subcontractors.

Insert Section 6.17.6 and subordinate Sections as follows:

6.17.6 Parking.

6.17.6.1 Columbus Campus:

- .1 All parking on the University's central campus is restricted and controlled by the University's Transportation and Parking Services. Employees of the CM and its Subcontractors shall purchase parking permits from Transportation and Parking Services and shall park cars in areas assigned to them. Parking on streets or in restricted areas is prohibited. Violations will result in a citation or vehicle impoundment.
- .2 At the beginning of the Work, the CM shall report to Transportation and Parking Services the approximate number of parking permits which will be required for all employees, including employees of its Subcontractors.
- .3 Depending upon availability, Contractor "A" permits may be purchased for key employees, such as forepersons and supervisors, of the CM. "A" permits allow parking in any "A," "B," or "C" surface parking lot.
- .4 All other construction personnel are eligible to purchase a Contractor "B" permit that is limited to the Buckeye Parking Lots, located at Ackerman and Fred Taylor Drive, which does not have a shuttle bus service.
- .5 The West Campus parking lot (south of Lane Ave; west of Kenny Road) is the designated park-and-ride option for construction staff unable to obtain central campus parking.
- .6 Shuttle bus service hours are from 6:00 a.m. to 7:30 a.m. and from 3:30 p.m. to 5:30 p.m. Monday through Friday. Private shuttles, arranged by the CM, shall be coordinated with Transportation and Parking Services.
- .7 Due to the extreme lack of parking in some areas of campus, the CM and its Subcontractors are restricted from parking in pay facilities on the central campus - even if the posted hourly fees are paid.
- .8 Transportation & Parking Services shall approve central campus parking arrangements for construction staff in advance. Current information may be accessed on www.tp.ohio-state.edu.

6.17.6.2 Regional Campuses: If the CM is performing work on a regional campus it shall coordinate with the campus facility manager on matters of parking permits and designated areas.

Insert Sections 6.17.7 and 6.17.8 as follows:

6.17.7 The CM shall not be permitted to use University streets for any purpose not previously approved by the Transportation & Parking Services. This includes, but is not limited to, trucks stopping on streets awaiting access to the Site. Should Site constraints be such that offloading of trucks from University streets is required, the CM shall provide a written request to Transportation & Parking Services 5 days in advance of the date when the unloading is required. The CM shall pay for any traffic control that the Director of Transportation & Parking Services determines necessary due to the street blockage. The CM shall also post signs 3 days in advance of any street blockage longer than 2 hours, warning motorists of the date, time, and duration of the planned blockage.

6.17.8 The CM shall validate with the appropriate University, city, county, or state agency the status of road work impacting traffic flow on, to, and from, campus.

Standard Requirements

Insert Sections 6.18.3, 6.18.3.1, 6.18.3.2, and 6.18.4 as follows:

6.18.3 Columbus Campus:

6.18.3.1 The interruption, disconnection, reconnection, reduction, or curtailment of any existing services shall not be undertaken without minimum prior written notice of 2 weeks and shall be coordinated with the University's Utilities Division, 614.292.5409. This work may be performed during normal working hours, holidays and weekends or as directed by the Project Manager, but shall always be scheduled to minimize the effect of these shutdowns with other facilities on Campus.

6.18.3.2 The CM shall, within 30 days of the Date of Commencement, coordinate with the University's Utilities Division for this work. The CM shall determine the number of times and the types and length of shutdown required for connections to that utility. Costs, if any, shall be borne by the CM.

6.18.4 Regional Campuses: If the CM is performing work on a regional campuses it shall coordinate with the campus facility manager on matters of utility shutdowns and cost.

Replace Section 7.9.2.1 with the following:

7.9.2.1 The CM shall maintain complete and accurate business records in accordance with Generally Accepted Accounting Principles, and such records shall be kept and maintained at the CM's principal place of business. If the CM's principal place of business is not in Columbus, Ohio, the CM shall make its records available at the Site within 48 hours of a request for the records.

Insert Section 9.2.12.1.1 as follows:

- .1 The CM agrees that any funds which are due to the CM and required to be placed in an escrow account, including but not limited to, retainage, and funds withheld pursuant to mechanic's liens, will be placed in an escrow account at The Huntington National Bank, Columbus, Ohio.

Insert Section 12.7.6 as follows:

12.7.6 A list of University holidays is available at <http://controller.osu.edu/pav/pav-holidays.shtm>.

Insert Article 13 with associated Sections as follows in its entirety:

ARTICLE 13 - MISCELLANEOUS SUPPLEMENTARY CONDITIONS

13.1 Sexual Harassment

13.1.1 The University maintains an environment free from sexual harassment. The CM and its Subcontractors are hereby notified that prompt corrective measures will be taken to stop sexual harassment whenever it occurs in accordance with University policy.

13.2 Use of Name

13.2.1 The CM shall not advertise the fact that it has contracted with The Ohio State University, or make use of the University's name or other identifying marks or property without the prior written consent of the University's Office of Administration and Planning.

13.3 False Fire Alarms

13.3.1 As Liquidated Damages, and not as a penalty, the CM acknowledges and agrees that the University shall be entitled to retain or recover from the CM \$300 or actual costs, whichever is greater, for each false fire alarm that is determined to be a result of negligence by the CM. This amount reflects University's actual costs incurred in dealing with these false alarms, including, but not limited to, the costs of transportation, manpower, and loss of efficiency.

END OF DOCUMENT



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ARTICLE 1 - CONSTRUCTION MANAGER'S RESPONSIBILITIES

1.1 Nondiscrimination

1.1.1 The CM shall comply with Applicable Law regarding equal employment opportunity, including Ohio Revised Code ("ORC") Section 153.59 and all Executive Orders issued by the Governor of the state of Ohio.

1.1.1.1 As required under ORC Section 153.59, the CM agrees to both of the following:

- 1 "in the hiring of employees for the performance of work under the contract or any subcontract, no contractor, subcontractor, or any person acting on a contractor's or subcontractor's behalf, by reason of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates; and"
- 2 "no contractor, subcontractor, or any person on a contractor's or subcontractor's behalf, in any manner, shall discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color."

1.1.1.2 The CM shall cooperate fully with the State Equal Opportunity Coordinator ("EOC"), with any other official or agency of the state or federal government which seeks to eliminate unlawful employment discrimination, and with all other state and federal efforts to assure equal employment practices under the Contract.

1.1.1.3 In the event the CM fails to comply with these nondiscrimination clauses, the Contracting Authority shall deduct from the amount payable to the CM a forfeiture of the statutory penalty pursuant to ORC 153.60 for each person who is discriminated against or intimidated in violation of this Section 1.1.

1.1.1.4 The Contract may be terminated or suspended in whole or in part by the Contracting Authority and all money to become due hereunder may be forfeited in the event of a subsequent violation of this Section 1.1.

1.1.2 Hiring Under State Public Improvement Contracts.

1.1.2.1 Any provision of a hiring hall contract or agreement which obligates a CM to hire, if available, only employees referred to the CM by a labor organization shall be void as against public policy and unenforceable with respect to employment under any public improvement contract unless at the date of execution of the hiring hall contract or agreement, or within 30 days thereafter, the labor organization has procedures in effect for referring qualified employees for hire without regard to race, color, religion, national origin, military status, or ancestry and unless the labor organization includes in its apprentice and journey person's membership, or otherwise has available for job referral without discrimination, qualified employees, both whites and non-whites (including African-Americans).

1.1.3 Affirmative Action.

1.1.3.1 The CM and subcontractors shall comply with the State's Equal Employment Opportunity requirements described under Ohio Administrative Code Sections ("OAC") 123:2-3 through 123:2-9 that include, without limitation, the requirements described under this Section 1.1.3.

1.1.3.2 The CM shall demonstrate its good faith efforts to comply with the utilization goals currently established for minority and women employees and submit documentation to the EOC.

1.1.3.3 By the tenth day of each month, the CM and subcontractors shall submit to the EOC via the internet a completed Ohio Construction Contract Information Report - Input Form 29 (I-29) for the preceding month. The form shall be submitted through the Ohio Business Gateway: <http://business.ohio.gov/efiling/>.

1.2 Prevailing Wages

1.2.1 The CM shall comply with the prevailing wage requirements described under ORC Chapter 4115 that include, without limitation, the requirements described under this Section 1.2.

1.2.2 The CM shall pay to laborers and mechanics performing Work on the Project the prevailing wage rates of the Project locality, as determined by the Ohio Department of Commerce, Wage and Hour Bureau.

1.2.3 The CM shall post in a prominent place readily accessible by all workers on the Site, a legible listing of the current classifications of laborers, workers, and mechanics employed under this Contract. The CM shall ensure that the rates posted are current and remain posted in legible condition during the period of the Contract.

1.2.4 The CM shall not be entitled to an increase in the Contract Sum on account of an increase in prevailing wage rates, except as otherwise provided by Applicable Law. The CM may access the Ohio Department of Commerce, Wage & Hour Bureau at its website, <http://198.234.41.198/w3/webwh.nsf/pages/PrevailingWageBid>, to obtain the current wage rates.

1.3 Royalties and Patents

1.3.1 The CM shall pay all royalties, license fees, and assume all costs incident to the use, in the performance of the Work or the incorporation in the Work, of any invention, design, process, product, or device that is the subject of patent rights or copyrights held by others.

1.3.2 If a particular invention, design, process, product, or device is specified in the Contract Documents and if, to the knowledge of the A/E, use of the specified item is subject to patent rights or copyrights calling for the payment of a license fee or royalty to others, the A/E shall disclose the existence of the rights in the Contract Documents.

1.3.2.1 If the CM has reason to believe that use of the specified item is subject to patent or copyright protection, the CM shall immediately notify the Contracting Authority.

1.4 Assignment of Antitrust Claims

1.4.1 By signing the Agreement, the CM assigns, conveys and transfers to the Contracting Authority any right, title, and interest to any claims or causes of action it may have or acquire under state or federal antitrust laws relating to any goods, products, or services purchased, procured, or rendered to the State pursuant to the Contract.

1.5 Use of Domestic Steel

1.5.1 The CM is required by law to supply domestically produced steel products used for load bearing structural purposes on all projects funded in whole or in part with State funds.

1.5.2 The A/E, CM, and Subcontractors shall comply with the requirements of the Department of Administrative Services' policy regarding the specification and use of domestically produced steel products, including furnishing the required certifications. This policy is available on the Department's website at <http://das.ohio.gov> (click on "DAS Statewide Policies" under the Hot Links menu). Scroll down and then click on Directive GS-D-07 "Required Use of Domestic Steel."

1.6 Drug Free Safety Program Participation

1.6.1 Throughout the performance of the Work, the CM shall be enrolled in and remain in good standing in the Ohio Bureau of Workers' Compensation ("OBWC") Drug-Free Safety Program ("DFSP") or a comparable program approved by the OBWC that meets the requirements specified in ORC Section 153.03 ("OBWC-approved DFSP").

1.6.2 As required under ORC Section 153.03(E):

1.6.2.1 "Each contractor shall require all subcontractors with whom the contractor is in contract for the public improvement to be enrolled in and be in good standing in the Bureau of Workers' Compensation's Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to a subcontractor providing labor at the project site of the public improvement."

1.6.2.2 "Each subcontractor shall require all lower-tier subcontractors with whom the subcontractor is in contract for the public improvement to be enrolled in and be in good standing in the Bureau of Workers' Compensation's Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to a lower-tier subcontractor providing labor at the project site of the public improvement."

1.6.2.3 "Failure of a contractor to require a subcontractor to be enrolled in and be in good standing in the Bureau of Workers' Compensation's Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to the time that the subcontractor provides labor at the project site will result in the contractor being found in breach of the contract and that breach shall be used in the responsibility analysis of that contractor or the subcontractor who was not enrolled in a program for future contracts with the State for five years after the date of the breach."

1.6.2.4 "Failure of a subcontractor to require a lower-tier subcontractor to be enrolled in and be in good standing in the Bureau of Workers' Compensation's Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to the time that the lower-tier subcontractor provides labor at the project site will result in the subcontractor being found in breach of the contract and that breach shall be used in the responsibility analysis of that subcontractor or the lower-tier subcontractor who was not enrolled in a program for future contracts with the State for five years after the date of the breach."

1.6.3 Prior to authorizing a Subcontractor to commence Work on the Site, the CM shall obtain the Contracting Authority's approval, and shall also submit written confirmation of the Subcontractor's enrollment on the Subcontractor and Material Supplier Declaration form to the A/E.

1.6.4 In addition to OBWC-approved DFSP Basic requirements, the Department requires each CM and Subcontractor that provides labor on the Site to participate in a pool that performs random drug testing of at least 5 percent of its employees who perform labor on the Site. The random drug testing percentage shall also include the on-site supervisors of the CM and Subcontractors. Basic random drug testing shall otherwise comply with the same testing guidelines and criteria as required for OBWC-approved advanced testing. The CM and Subcontractors shall provide evidence of required testing to the Contracting Authority upon request.

1.7 EDGE Participation and Reporting

1.7.1 The CM shall participate in the "Encouraging Diversity Growth and Equity" ("EDGE") Program by subcontracting with, and using one or more, businesses certified as an EDGE Business Enterprise ("EDGE-certified business", "certified EDGE business") by the EOC.

1.7.1.1 If the CM is an EDGE-certified business, the CM may include its own compensation under this Contract in the reporting.

1.7.1.2 The amount of EDGE participation cannot exceed 100 percent of the sum of the CM's Preconstruction Stage Compensation plus the Contract Sum.

1.7.2 The CM shall provide an EDGE Participation Report with each of the CM's invoices for Preconstruction Stage Compensation and each CM Payment Request.

1.7.2.1 The CM shall provide status reports, produced by the CM and each applicable EDGE-certified business for the Contract, indicating:

- .1 the name of each EDGE-certified business;
- .2 the federal tax identification number of each EDGE-certified business;
- .3 the date of the EDGE-certified business contract, subcontract, or purchase order;
- .4 the projected and actual start and end dates of the EDGE-certified business contract, subcontract, or purchase order;
- .5 the original amount of the EDGE-certified business contract or purchase order with the CM;
- .6 the current amount of the EDGE-certified business contract or purchase order;
- .7 the amount invoiced to date;
- .8 the amount paid to date;
- .9 the status of the EDGE-certified business contract or purchase order (active, complete, or void); and
- .10 a statement describing any substantive product or performance deficiencies.

1.7.2.2 The CM shall provide reports for each EDGE-certified business; however, the reports may be consolidated and submitted as one document.

1.7.3 The CM shall provide an EDGE Participation Final Report simultaneously with its final CM Payment Request.

1.7.3.1 The CM and each certified EDGE Business Enterprise shall provide in the report certification that the submitted document is a true and accurate accounting of the original contract amount paid to, and received by, each EDGE Certified Business.

1.7.4 The CM shall provide the EDGE Participation Reports in detail and form acceptable to the Contracting Authority.

1.7.4.1 Failure to timely submit EDGE Participation Reports may result in withholding payment from the CM.

1.7.5 The CM shall cooperate fully with requests for additional EDGE information and documentation from the EOC or the Contracting Authority.

1.8 Owner Work Rules

1.8.1 The CM shall consult with the Owner to obtain full knowledge of the Owner's rules, regulations, or requirements affecting the Project.

1.9 Emergency

1.9.1 In the event of an emergency affecting the safety of the Project, other property, or individuals, the CM, without special instruction or authorization, shall act to prevent the threatened damage, injury, or loss.

1.9.2 If the CM believes that it is entitled to an adjustment of the Preconstruction Fee, Contract Sum, or Contract Times on account of its actions in response to an emergency, the CM may request an adjustment to the Contract by giving written notice under Section 7.3.2 or 9.1.6 (as applicable).

1.10 Limit of CM's Responsibility

1.10.1 The CM is not responsible for the A/E's negligence or the A/E's failure to properly perform the A/E's contract.

ARTICLE 2 - STATE'S RIGHTS AND RESPONSIBILITIES

2.1 Contracting Authority

2.1.1 The Contracting Authority shall designate a Project Manager for the Project. The Project Manager is authorized to act on behalf of the Contracting Authority to perform specific responsibilities under the Contract.

2.1.2 The Contracting Authority shall furnish information and services required of it in a timely manner.

2.1.3 The Contracting Authority shall have access to the Work at all times, whenever the Project is in preparation or progress.

2.1.4 The Department requires the use of its forms where noted in the Contract Documents. The party responsible for initiating forms shall utilize the latest edition obtained from the Department's website: <http://ohio.gov/sao>. The Department may make modifications to its forms at any time.

2.1.4.1 The CM shall not modify any form provided by the Department or the Contracting Authority.

2.1.4.2 For projects that are locally administered, the agency or institution administering the Project may modify the Department's forms to include the agency's or institution's logo and contact information and may publish the modified forms on its website. The party responsible for initiating forms shall coordinate with the Contracting Authority.

2.1.5 The Contracting Authority is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the CM's failure to carry out the Work in conformity with the Contract Documents.

2.2 Owner

2.2.1 The Owner shall designate a representative authorized to act on the behalf of the Owner during the Project.

2.2.2 The Owner shall furnish information and services required of it in a timely manner.

2.2.3 The Owner shall have access to the Work at all times whenever the Project is in preparation or progress.

2.2.4 Upon issuance of the Notice to Proceed, the Owner shall provide the Site to the CM in a condition to permit the CM to perform the Work.

2.2.5 The Owner may request a change in the Work if the A/E recommends and the Contracting Authority approves the change.

2.2.6 The Owner is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the CM's failure to carry out the Work in conformity with the Contract Documents.

2.3 Owner's Right to Partial Occupancy

2.3.1 The Owner may occupy or use a portion of the Project prior to Contract Completion if:

2.3.1.1 the building authority with jurisdiction over the Project issues a temporary or partial certificate of occupancy permit for the portion of the Project the Owner intends to occupy;

2.3.1.2 the CM with the Owner's assistance has provided written notice of the Partial Occupancy to the insurers providing property insurance for the Project; and

2.3.1.3 the Contracting Authority has received notice of the Partial Occupancy from the A/E and has consented to it.

2.3.2 Before the Owner commences Partial Occupancy, the A/E shall process a Certification of Contract Completion for the designated area listing incomplete or Defective Work under the Contract for approval of the Contracting Authority.

2.3.3 From the date of execution of the Certification of Contract Completion by the Contracting Authority, the CM shall be relieved of the obligation to maintain the occupied portion of the Work, but shall remain obligated to complete and correct the Work and to carry the insurance required by the Contract Documents during performance of any such Work.

2.3.4 The Owner's Partial Occupancy does not constitute acceptance of any Defective Work, nor does it relieve the CM of liability for any express or implied warranties or responsibility for Defective Work.

2.4 Approval of Owner, Contracting Authority, and State

2.4.1 The Owner's, Contracting Authority's, or State's review and approval of the Work and any information the CM submits to them is for the sole purpose of determining whether the Work and information are generally consistent with the Contract's intent, and will not relieve the CM of its sole responsibility for the performance, preparation, completeness, and accuracy of the Work and information.

2.5 CM Performance Evaluation

2.5.1 The Contracting Authority shall evaluate the CM's performance during the progress of the Work, at completion of a phase of the Project, completion of the Project, or any of the foregoing. The Contracting Authority shall retain the evaluation(s).

2.5.1.1 The CM may request a copy of the completed evaluation(s). If the CM wishes to comment or take exception to any rating or remark, the CM shall send a response in writing to the Contracting Authority within 30 days of receiving the evaluation(s).

2.5.1.2 The Contracting Authority may use the evaluation(s) in determining the responsibility of the CM for award of future contracts.

2.5.1.3 The Contracting Authority may request information from the CM for use in evaluating the A/E's performance. If information is requested, the CM shall comply in a timely and responsive manner.

2.5.1.4 If a breach of the Contract is committed by the CM or is attributable to a Subcontractor, that breach shall be used in the responsibility analysis of the CM and the Subcontractor (where applicable) for future contracts with the State or subcontracts on State projects for five years after the date of the breach.

ARTICLE 3 - ARCHITECT/ENGINEER'S RESPONSIBILITIES

3.1 The A/E's Contract Administration Duties

3.1.1 The A/E shall administer the Contract as provided in the Contract Documents and the Architect/Engineer Agreement, including, but not limited to, the performance of the functions described as follows:

3.1.1.1 The A/E may authorize minor changes or alterations in the Work that are consistent with the intent of the Contract Documents and do not involve adjustment of the Contract Sum or the Contract Times, or both. The A/E has no authority to authorize the CM to perform additional or extra Work for which the CM may seek adjustment of the Contract Sum or the Contract Times, or both.

3.1.1.2 The A/E shall review and recommend, certify, or approve applicable forms required under the Contract Documents.

3.1.1.3 The A/E shall render decisions in connection with the CM's responsibilities under the Contract Documents, and submit recommendations to the Contracting Authority for enforcement of the Contract as necessary.

3.1.2 The A/E is the initial interpreter of all requirements of the Contract Documents. All decisions of the A/E are subject to final determination by the Contracting Authority.

3.2 Site Visits and Observation

3.2.1 The A/E shall notify, advise, and consult with the Contracting Authority and the Owner and protect the State against Defective Work throughout the completion of the Project, which includes the Correction Period.

3.2.1.1 The A/E shall designate a field representative, subject to the Contracting Authority's approval, to attend to the Project as required by the Architect/Engineer Agreement, to observe and check the progress and quality of the Work, and to take action as necessary or appropriate to achieve conformity with the Contract Documents.

3.2.1.2 The A/E shall have its consultants attend to the Project at the intervals required by its agreement or the Contracting Authority.

3.2.2 The A/E is authorized to disapprove or reject Defective Work, or that it believes will not produce a Project that conforms to the Contract Documents or will prejudice the integrity of the design concept of the Project as a functioning whole as indicated by the Contract Documents. The A/E shall immediately notify the Contracting Authority any time the A/E disapproves or rejects an item of Work.

3.2.3 The A/E is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the CM's failure to carry out the Work in conformity with the Contract Documents.

3.3 Tests and Inspections

3.3.1 Unless otherwise specified in the Contract Documents, the A/E shall apply for, secure, and pay for the costs of structural testing and special inspections under Chapter 17 of the Ohio Building Code; testing including geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air and water balancing and testing, or other testing; or approval required by Applicable Law.

3.4 Approval of A/E

3.4.1 The A/E's review and approval of the Work and any information the CM submits to the A/E is for the sole purpose of determining whether the Work and information are generally consistent with the Contract's intent, and will not relieve the CM of its sole responsibility for the performance, preparation, completeness, and accuracy of the Work and information.

ARTICLE 4 - SUBCONTRACTORS

4.1 Applicability of Bidding Requirements

4.1.1 Sections 4.2, 4.3, and 4.3.5 apply to all Work during the Construction Stage (including the CM's procurement of long-lead-time items before the Date of Commencement) except:

4.1.1.1 the CM's management and administration of the entire Work, including the administration of Subcontracts;

4.1.1.2 General Conditions Work;

4.1.1.3 non-specialty Work valued in the aggregate for the Project at less than the below threshold if the CM obtains the Contracting Authority's written approval before the commencement of that Work; and

Contract Sum	Bid threshold for non-specialty Work
Less than \$5,000,000	\$50,000
From \$5,000,000.01 to \$10,000,000	\$100,000
From \$10,000,000.01 to \$50,000,000	\$150,000
More than \$50,000,000	\$200,000

4.1.1.4 the balance of the Work under a Subcontract where the CM terminated the Subcontract for cause and the CM obtains the Contracting Authority's written approval before the commencement of that portion of the Subcontract Work.

4.2 Bidder Prequalification Criteria

4.2.1 The CM shall establish criteria for the prequalification of prospective Bidders on Subcontracts that shall:

4.2.1.1 include the experience of the prospective Bidder, the prospective Bidder's financial condition, conduct and performance on previous contracts, facilities, management skills, and ability to execute the associated Subcontract properly;

4.2.1.2 further any goals set as part of the EDGE program or a diversity and inclusion program required by Applicable Law;

4.2.1.3 require prospective Bidders to affirmatively state that they have not violated any affirmative action program during the last five years preceding the date of the prequalification application; and

.1 Since the Project is governed by ORC Section 9.47, a prospective Bidder may meet this requirement by submitting a valid certificate of compliance.

4.2.1.4 require a prospective Bidder to submit proof of current licenses to perform the associated Work as required by a public authority or by Applicable Law.

4.2.2 The CM shall include any additional criteria for specific Subcontracts required by the Owner or Contracting Authority that are consistent with the scope and needs of the Project.

4.2.3 The CM shall submit its proposed prequalification criteria for each Subcontract to the Contracting Authority and place the establishment of prequalification criteria on the Project Schedule.

4.2.4 The Contracting Authority shall approve or reject, in whole or in part, the prequalification criteria submitted by the CM. The Contracting Authority will use the approved prequalification criteria for any future analysis it may conduct concerning a prospective Bidder's responsibility to perform a Subcontract.

4.3 Bidder Prequalification Process

4.3.1 Unless the Contracting Authority agrees otherwise in writing, the CM shall complete the Bidder Prequalification Process for each Subcontract no later than 30 days before the CM intends to solicit Bids for that Subcontract.

4.3.2 During the Bidder Prequalification Process, the CM shall:

4.3.2.1 develop prospective Bidders' interest in the Project, including specifically those prospective Bidders (if any) the Owner or the Contracting Authority asks the CM to contact;

- .1 To reach prospective Bidders, the CM may place a notice on **(1)** the State's public notice website created under ORC 125.182 (with the assistance of the Contracting Authority or the Owner), **(2)** the official website of the Owner or Contracting Authority, **(3)** on other websites such as appropriate trade association websites, news media, or other public media websites, or **(4)** any combination of the foregoing.

4.3.2.2 issue requests for qualifications to prospective Bidders; and

4.3.2.3 as appropriate, forward questions from prospective Bidders to the A/E.

4.3.3 The CM shall evaluate the qualifications of each prospective Bidder that timely submits its qualifications, and notify each of them whether they are qualified. The CM shall submit the names and qualifications of all of the qualified prospective Bidders to the Contracting Authority. The CM may submit the names of fewer than three qualified prospective Bidders if the CM submits to the Contracting Authority satisfactory documentation that fewer than three qualified prospective Bidders are available.

4.3.3.1 The Contracting Authority, the Owner, the A/E, and the CM may meet to review the qualifications of the prospective Bidders on the list the CM submits to the Contracting Authority.

4.3.4 The Contracting Authority shall review the list the CM submits, and may rely on the CM's representations to verify the prospective Bidders meet the prequalification criteria. The Contracting Authority may eliminate any prospective Bidder it determines is not qualified and notify the CM. The CM shall promptly notify the prospective Bidder in writing of the Contracting Authority's decision to eliminate the prospective Bidder.

4.3.5 If the CM receives a written objection from the eliminated prospective Bidder within 5 days after the eliminated prospective Bidder receives notice of the Contracting Authority's decision, the CM shall promptly deliver the eliminated prospective Bidder's written objection to the Contracting Authority. The Contracting Authority may respond to the objection through the CM.

4.4 Subcontract Bidding Process

4.4.1 The CM shall create a Bid package for each Subcontract and solicit Bids from the qualified prospective Bidders identified under Section 4.3 for that Bid package **(1)** in accordance with the Construction Progress Schedule but **(2)** no later than 60 days before Work under that Bid package is scheduled to begin.

4.4.2 During the Subcontract Bidding Process, the CM shall:

4.4.2.1 issue Bidding Documents to prospective Bidders;

4.4.2.2 conduct prebid conferences with prospective Bidders;

4.4.2.3 as appropriate, forward questions from prospective Bidders to the A/E;

4.4.2.4 as appropriate, assist the A/E with the preparation of addenda; and

4.4.2.5 receive all Bids, prepare Bid analyses, conduct pre-award conferences, and report that information to the Contracting Authority, the Owner, and the A/E.

4.4.3 At the completion of the Subcontract Bidding Process for each Subcontract and no later than 25 days before the Work is scheduled to begin under that Subcontract, the CM and the Contracting Authority will meet to review the Bids of the qualified prospective Bidders identified under Section 4.3 for that Subcontract and to determine to which prospective Bidder the CM will award the Subcontract. During the review meeting, the CM shall identify the prospective Bidder to whom the CM proposes to award the Subcontract. The Contracting Authority may reject the CM-proposed Bidder as not responsible.

4.4.3.1 Each Bidder to whom the CM proposes to award the Subcontract shall (1) be qualified to perform the subcontracted portion of the Work and (2) have submitted a Bid, which conforms to the requirements of the Contract Documents without reservations or exceptions.

4.4.3.2 If the Contracting Authority does not reject the CM-proposed Bidder as not responsible, the CM shall enter into the Subcontract with that Bidder.

- .1 All Subcontracts shall be on the Subcontract form prescribed by OAC Section 153:1-03-02.
- .2 No less than 10 days before Work is to be performed by the Subcontractor, or within a shorter period as mutually agreed by the CM and the Contracting Authority, the CM shall submit to the A/E a Subcontractor and Material Supplier Declaration form through which the CM identifies the Subcontractor. After receiving the form, the A/E shall verify that it is complete and deliver it to the Contracting Authority and the Owner. If the A/E finds the form incomplete, the A/E shall return it to the CM and identify the incomplete information.

4.4.3.3 If the Contracting Authority rejects the CM-proposed Bidder as not responsible, the CM shall identify another Bidder to whom the CM proposes to award the Subcontract. The CM shall not be entitled to any adjustment of the Contract Sum, the Contract Times, or both on account of the Contracting Authority's rejection of a CM-proposed Bidder as not responsible.

4.5 Evaluation of Lower-Tier Subcontractors

4.5.1 As used in this Section 4.5, a "lower-tier Subcontractor" is any Subcontractor not in privity with the CM.

4.5.2 No less than 10 days before Work is to be performed by any lower-tier Subcontractor, or within a shorter period as mutually agreed by the CM and the Contracting Authority, the CM shall submit to the A/E a Subcontractor and Material Supplier Declaration form through which the CM identifies the lower-tier Subcontractor.

4.5.3 The CM's failure to timely submit the information regarding a proposed lower-tier Subcontractor may result in withholding payment in accordance with Section 9.2.13.

4.5.4 After receiving the Subcontractor and Material Supplier Declaration form, the A/E shall verify that it is complete and deliver it to the Contracting Authority and the Owner. If the A/E finds the form incomplete, the A/E shall return it to the CM and identify the incomplete information.

4.5.5 If the Contracting Authority rejects any proposed lower-tier Subcontractor, the CM shall propose a replacement lower-tier Subcontractor at no additional cost. The proposed replacement lower-tier Subcontractor will be evaluated as described above.

4.6 Self-Performed Work

4.6.1 Neither the CM nor a CM Affiliated Entity shall directly perform with its own employees or other resources any Work on the Project during the Construction Stage except:

- 4.6.1.1 Work not subject to Bidding as described under Section 4.1; and
- 4.6.1.2 as otherwise provided in this Section 4.6.

4.6.2 If the CM or a CM Affiliated Entity intends to Bid on any Work subject to Bidding as described under Section 4.1:

4.6.2.1 During the preparation of the Subcontracting Plan, the CM shall notify the Contracting Authority that the CM or CM Affiliated Entity may Bid on a portion of the Work. The Contracting Authority, the CM, and the A/E shall review that Work in detail and agree on its scope before the CM finalizes the Subcontracting Plan.

4.6.2.2 At least 14 days before issuing Bidding Documents for the scope of Work the CM or a CM Affiliated Entity intends to Bid on, the CM shall, in writing, seek the Contracting Authority's permission for the CM or a CM Affiliated Entity to Bid on that particular Work.

4.6.3 If the Contracting Authority permits the CM or a CM Affiliated Entity to submit a Bid for a particular scope of Work:

4.6.3.1 The CM or CM Affiliated Entity (as applicable) shall meet in all respects the Bidder prequalification criteria approved by the Contracting Authority under Section 4.2.

4.6.3.2 The Bidding Documents shall specifically state that the CM or a CM Affiliated Entity may submit a Bid for that Work.

4.6.3.3 The CM shall ensure strict separation of the personnel of the CM or CM Affiliated Entity involved with Bidding on the Work from the personnel of the CM or CM Affiliated Entity otherwise involved in the Project. That separation includes, without limitation, prohibiting any communication (other than communication that is permitted by all Bidders) between those two groups before the Contracting Authority opens the associated Bids.

4.6.3.4 The CM or CM Affiliated Entity (as applicable) will be subject to all requirements applicable to the other Bidders for that Work.

4.6.3.5 The CM or CM Affiliated Entity (as applicable) shall submit its sealed Bid to the Contracting Authority no less than 48 hours before the deadline for Bidders' submission of Bids to the CM for that scope of Work.

4.6.4 If the CM or a CM Affiliated Entity submits a Bid as described under Section 4.6.3 and less than two other Bidders submit Bids for the same Work, the Contracting Authority may require that Work to be rebid.

4.6.5 If the Contracting Authority awards to the CM or a CM Affiliated Entity the right to self-perform a particular scope of Work by operation of Sections 4.6.2 and 4.6.3, the CM may not use CM Contingency for that Work. The foregoing prohibition applies specifically but not exclusively to using CM Contingency to make up for the CM's underestimation of that scope of Work in the CM's detailed estimate of the Cost of the Work described under Section 5.6.3.4.

4.6.6 If the Contracting Authority awards to a CM Affiliated Entity the right to self-perform a particular scope of Work by operation of Sections 4.6.2 and 4.6.3, the CM Affiliated Entity will be a Subcontractor under the Contract and the CM's Subcontract with the CM Affiliated Entity shall be on the Subcontract form prescribed in OAC 153:1-03-02.

4.7 Replacement of Subcontractors

4.7.1 The CM shall not replace any Subcontractor after execution of the Subcontract without the prior written approval of the Contracting Authority.

4.8 CM's Responsibility

4.8.1 The CM is fully responsible for all acts and omissions of its Subcontractors and is responsible for scheduling and coordinating the Work of its Subcontractors.

4.8.1.1 The CM is fully responsible for any delay, interference, disruption, or hindrance attributable to the CM's Subcontractors.

4.8.1.2 The CM shall require that each of its Subcontractors have a competent supervisor at the Site whenever the Subcontractor is performing Work.

4.8.1.3 The CM shall bind its Subcontractors to the terms of the Contract Documents, so far as applicable to the Work of the Subcontractor, and shall not agree to any provision, which seeks to bind the State to terms inconsistent with, or at variance from the Contract Documents.

4.8.2 The CM will not be relieved of its full responsibility for Subcontractors and their performance of the Work by (1) the participation of the Owner, Contracting Authority, and the A/E in the processes described under this Article 4 or other related provisions of the Contract Documents or (2) the Contracting Authority's rejection of a Bidder to failure to reject a Bidder under Section 4.3.5.

4.9 Contingent Assignment of Subcontracts

4.9.1 The CM hereby assigns its agreement with each Subcontractor to the Contracting Authority provided that the assignment is effective only after termination of the Contract by the Contracting Authority and only for those agreements which the Contracting Authority accepts by notifying the CM and applicable Subcontractor in writing. The Contracting Authority may re-assign accepted agreements.

4.10 Prompt Payment

4.10.1 The CM shall make payments to Subcontractors in accordance with Applicable Law, including ORC Section 4113.61 that include, without limitation, the requirements described under this Section 4.10.

4.10.1.1 If a Subcontractor requests payment in time to allow the CM to include the request in its CM Payment Request, the CM shall pay within 10 days after receipt of payment from the State:

- .1 To a Subcontractor other than a Material Supplier, an amount equal to the percent of completion allowed by the Contracting Authority for the Subcontractor's Work.
- .2 To a Material Supplier, an amount equal to all or that portion of the CM Payment Request that represents the materials furnished by the Material Supplier.

4.10.2 The CM may reduce the amount to be paid to a Subcontractor pursuant to Section 4.10.1 by the amount of any funds retained from the CM and may withhold amounts necessary to resolve disputed liens or Claims involving the Work of the Subcontractor.

4.10.3 If the CM fails to comply with this Section 4.10, the CM shall pay to the applicable Subcontractor 18 percent interest, compounded annually, on any unpaid amount beginning on the 11th day after receipt of payment from the State.

4.10.4 In order to establish lien rights, Subcontractors shall comply with Applicable Law, including ORC Sections 1311.26, 1311.261, and 1311.29.

4.10.5 If the Contracting Authority receives a Claim Affidavit from a Subcontractor, it shall proceed as required by Applicable Law, including ORC Sections 153.63 and 1311.31.

4.10.6 Laborers, Subcontractors, and Material Suppliers may secure payment rights in accordance with Applicable Law, including ORC Section 153.56.

ARTICLE 5 - PRECONSTRUCTION SERVICES

5.1 General Requirements

5.1.1 Scope of Preconstruction Services.

5.1.1.1 The CM shall perform the Preconstruction Services, which consist of the activities and stages set forth in Sections 5.2 through 5.7, inclusive, and include, but are not limited to, normal construction management services for the Project, and any services necessary to comply with the ORC Section 3379.10 Percent for Arts Program. The CM shall provide its services according to a Staffing Plan approved by the Contracting Authority.

5.1.2 Consultation.

5.1.2.1 The CM with the A/E shall jointly schedule and attend regular meetings with the Contracting Authority and the Owner. The CM shall consult with the Contracting Authority, the Owner, and A/E regarding Site use and improvements and the selection of materials, building systems, and equipment. The CM shall provide recommendations to the Contracting Authority, the Owner, and A/E on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost, including estimates of alternative designs or materials, budgets and possible economies.

5.1.2.2 At all appropriate times throughout the performance of the Work, the CM shall contact, meet, consult, and otherwise coordinate with the Contracting Authority, the Owner, the A/E, governmental authorities with jurisdiction over the Project, and others for the purpose of facilitating the Project's design and construction.

5.1.3 Project Schedule.

5.1.3.1 The CM shall provide and maintain a bar chart Project Schedule with a logical sequence of events and sufficient detail to properly anticipate and monitor progress on the Project.

5.1.4 Long-Lead-Time Items.

5.1.4.1 The CM shall recommend to the Contracting Authority, the Owner, and the A/E a schedule for procurement of long-lead-time items which will constitute part of the Work as required to meet the Project Schedule.

5.1.4.2 The Owner may procure long-lead-time items itself before the Contract Sum is established. In that case, after the Contract Sum is established, the Owner will assign the contracts for the long-lead-time items to the CM, who shall accept responsibility for those items as if procured by the CM. The CM shall expedite the delivery of long-lead-time items.

5.2 Organizational Meeting

5.2.1 Commencement.

5.2.1.1 The CM's Preconstruction Services will begin on the date set forth in a notice that the Contracting Authority will issue to the CM.

5.2.1.2 Unless the Contracting Authority agrees otherwise in writing, the CM's Preconstruction Services will begin with an organizational meeting between the Contracting Authority, the Owner, the A/E, and the CM. All of the CM's key personnel involved in the Project shall attend the organizational meeting.

5.2.2 During the organizational meeting, the attendees will:

5.2.2.1 review the responsibilities of each of the Contracting Authority's and the Owner's key personnel involved in the Project;

5.2.2.2 review the scope of the CM's services and the responsibilities of each of the CM's key personnel involved in the Project;

5.2.2.3 review the scope of the A/E's services and the responsibilities of each of the A/E's key personnel involved in the Project;

5.2.2.4 review and establish lines of communication between the Contracting Authority, the Owner, the A/E, and the CM; and

5.2.2.5 review the then-available programming and other documents which reflect the current status of the Project's design.

5.2.3 Within five days after the organizational meeting is adjourned the CM shall submit a proposed Project Schedule to the Contracting Authority, the Owner, and the A/E.

5.2.3.1 The Contracting Authority, the Owner, the CM, and the A/E will promptly thereafter consult with one another as necessary to reach agreement on the initial Project Schedule, which shall be used as the basis for moving forward with the Project subject to revision as described elsewhere in the Contract.

5.2.4 Within five days after the organizational meeting is adjourned, the A/E will prepare and distribute the meeting's minutes.

5.3 Program Verification Stage

5.3.1 Commencement.

5.3.1.1 Unless the Contracting Authority directs otherwise in writing, the Program Verification Stage will begin upon the completion of the activities described under Section 5.2.

5.3.2 In addition to performing those services required to comply with Section 5.3.4, during the Program Verification Stage, the CM shall:

5.3.2.1 advise the Contracting Authority, the Owner, and the A/E in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

5.3.2.2 meet with the Contracting Authority, the Owner, and the A/E at intervals acceptable to the Contracting Authority and the Owner, to review Drawings and other documents which depict the current status of the Program Verification Stage of the Project;

5.3.2.3 review the preliminary building needs, design, schedule, budget, and other information furnished by the Contracting Authority or Owner and arrive at a mutual understanding of the Project's requirements with the Contracting Authority, the Owner, and the A/E;

5.3.2.4 review and provide comments to the A/E's investigation of existing conditions and verification of the accuracy of Owner-provided information about existing conditions, as appropriate;

5.3.2.5 assist the A/E in the evaluation of the Project's impact on adjacent properties and rights-of-way; and

5.3.2.6 evaluate Site use and improvements, selection of materials, building systems and equipment, constructability, logistics, availability and suitability of labor and materials, time requirements, costs of alternative designs or materials and possible economies.

5.3.3 Review of Provisional Program Documents.

5.3.3.1 At the completion of the Program Verification Stage, the A/E will submit the provisional Program Documents to the Contracting Authority, the Owner, and the CM.

5.3.3.2 Within seven days after receiving the provisional Program Documents, the CM shall perform a detailed review of the provisional Program Documents. At the completion of that review, the CM shall provide a written "Opinion of Document Characteristics" to the Contracting Authority and send a copy of the Opinion to the A/E.

5.3.3.3 Through that Opinion, the CM shall document to the Contracting Authority the CM's opinion of the provisional Program Documents in terms of what the CM would reasonably expect to see in program documents on a similar project. The Opinion shall individually address each of the following topics at a minimum:

- .1 clarity of the documents;
- .2 completeness of the documents;
- .3 coordination of the documents;
- .4 constructability of the Work described in the documents to the extent appropriate during program verification;
- .5 whether the Work described in the documents appears consistent with the Project's budget requirements; and
- .6 whether the Work described in the documents appears consistent with the Project's schedule requirements.

5.3.3.4 If it is the CM's opinion that the provisional Program Documents do not reflect what the CM would reasonably expect to see in program documents on a similar project:

- .1 The CM shall also describe and identify in writing specific examples of the deficiencies.

- .2 The CM shall immediately meet to review the Opinion with the Contracting Authority, the Owner, and the A/E. The Contracting Authority and the Owner will thereafter determine an appropriate course of action, which may include the A/E's revision and resubmission of the documents and the CM's re-evaluation of them.
- .3 The CM shall not proceed with its services under Section 5.3.4 until further notice from the Contracting Authority.

5.3.4 CM's Programming Submission.

5.3.4.1 Within seven days after the completion of the activities described under Section 5.3.3 (except as provided under Section 5.3.3.4.3), and on the basis of the A/E's provisional Program Documents and other Contracting Authority-provided information, the CM shall prepare the following documents and submit them to the Contracting Authority, the Owner, and the A/E:

- .1 a preliminary estimate of Construction Cost ("Program Estimate") using area, volume or similar conceptual estimating techniques;
 - .1 If the Program Estimate exceeds the Construction Budget by more than 5% of the Budget or exceeds the A/E's program estimate of the Construction Cost by more than 5% of that estimate, the Contracting Authority may require the CM to immediately work with the A/E to develop viable proposals to reconcile the estimates with each other and the Construction Budget. The CM will present those proposals as an addendum to its Program Verification Stage submission.
- .2 a preliminary Construction Progress Schedule ("Program Schedule") for the Project in accordance with the requirements described under Section 6.5 to the extent appropriate during program verification; and
- .3 an updated Staffing Plan.

5.3.5 Program Documents Review.

5.3.5.1 The Contracting Authority, the A/E, and the CM shall meet to review the provisional Program Documents and the CM's Program Verification Stage Submission and to reach agreement on any Contracting Authority-authorized adjustments to the Program Documents, Project Schedule, Construction Budget, or Project Budget and any necessary clarifications of the Program Documents and the CM's Program Verification Stage Submission.

5.3.5.2 Unless that Contracting Authority agrees otherwise in writing, within five business days after the review meeting, the A/E and CM shall revise their respective Program Verification Stage submissions to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to each other, the Owner, and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Program Verification Stage Submissions and sign the related Design Review Acceptance form, the revised Program Verification Stage Submissions shall become the Approved Program of Requirements.

5.4 Schematic Design Stage

5.4.1 Commencement.

5.4.1.1 Unless the Contracting Authority agrees otherwise in writing, the Schematic Design Stage will begin upon the completion of the activities described in Section 5.3.5.

5.4.2 In addition to performing those services required to comply with Section 5.4.5, during the Schematic Design Stage, the CM shall:

5.4.2.1 advise the Contracting Authority, the Owner, and the A/E in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

5.4.2.2 meet with the Contracting Authority, the Owner, and the A/E at intervals acceptable to the Contracting Authority and the Owner, to review Drawings and other documents which depict the current status of the Schematic Design Stage of the Project;

5.4.2.3 review and provide comments to the A/E's further evaluation or refinement of the Approved Program of Requirements and the A/E's development of the Schematic Design Documents;

5.4.2.4 assist the A/E with identifying and analyzing requirements of Applicable Law;

5.4.2.5 review and provide comments to the A/E's investigation of existing conditions and verification of the accuracy of Owner-provided information about existing conditions, as appropriate;

5.4.2.6 assist the Owner and A/E with filing documents required for the approvals of governmental authorities with jurisdiction over the Project;

5.4.2.7 coordinate the location of new grading, drainage, and Site utilities;

5.4.2.8 update and re-issue the Project Schedule as necessary to keep the Contracting Authority, the Owner, and the A/E apprised of the schedule's current status;

5.4.2.9 prepare a preliminary analysis of the types and quantities of labor required for the Project;

5.4.2.10 make recommendations to the Contracting Authority, the Owner, and the A/E for actions designed to minimize adverse effects of labor shortages;

5.4.2.11 review and provide recommendations concerning Site use and improvements and alternative approaches to selection of materials, building systems, and equipment; and

5.4.2.12 provide recommendations on constructability, logistics, availability of materials and labor, time requirements for construction, and factors related to Project cost, including costs of alternative designs or materials, preliminary budgets, and possible economies of scale.

5.4.3 Preliminary Life Cycle Cost Analysis.

5.4.3.1 The A/E will submit the preliminary Life Cycle Cost Analysis to the CM. The CM shall promptly review, comment on, and forward the preliminary Life Cycle Cost Analysis with the CM's comments to the Owner and Contracting Authority.

5.4.4 Review of Provisional Schematic Design Documents.

5.4.4.1 Upon completion of the Schematic Design Stage, the A/E shall submit the provisional Schematic Design Documents to the CM.

5.4.4.2 Within ten business days after receiving the provisional Schematic Design Documents, the CM shall review the documents in detail. At the completion of that review, the CM shall provide a written "Opinion of Document Characteristics" to the Contracting Authority and the Owner, and send a copy of the Opinion to the A/E.

5.4.4.3 Through that Opinion, the CM shall document the CM's opinion of the provisional Schematic Design Documents in terms of what the CM would reasonably expect to see in schematic design documents on a similar project. The Opinion shall individually address each of the following topics at a minimum:

- .1 clarity of the documents;
- .2 completeness of the documents;
- .3 coordination of the documents;
- .4 constructability of the Work described in the documents to the extent appropriate during schematic design;
- .5 whether the Work described in the documents appears consistent with the Project's budget requirements; and

- .6 whether the Work described in the documents appears consistent with the Project's schedule requirements.

5.4.4.4 If it is the CM's opinion that the provisional Schematic Design Documents do not reflect what the CM would reasonably expect to see in schematic design documents on a similar project:

- .1 The CM shall also describe and identify in writing specific examples of the deficiencies.
- .2 The CM shall immediately meet to review the Opinion with the Contracting Authority, the Owner, and the A/E. The Contracting Authority and the Owner will thereafter determine an appropriate course of action, which may include the A/E's revision and resubmission of the documents and the CM's re-evaluation of them.

- .3 The CM shall not proceed with its services under Section 5.4.5 until further notice from the Owner.

5.4.5 CM's Schematic Design Submission.

5.4.5.1 Within 14 days after the completion of the activities described under Section 5.4.4 (except as provided under Section 5.4.4.3), and on the basis of the A/E's provisional Schematic Design Documents and other Owner-provided information, the CM shall prepare the following documents and submit them to the Contracting Authority, the Owner, and the A/E:

- .1 an estimate of the Construction Cost ("Schematic Design Estimate") using area, volume or similar conceptual estimating techniques;
 - .1 If the Schematic Design Estimate exceeds the Construction Budget by more than 5% of the Budget or exceeds the A/E's schematic design estimate of the Construction Cost by more than 5% of that estimate, the Contracting Authority may require the CM to immediately work with the A/E to develop viable proposals to reconcile the estimates with each other and the Construction Budget. The CM will present those proposals as an addendum to its Schematic Design Stage submission.
- .2 a preliminary Construction Progress Schedule ("Schematic Design Schedule") for the Project, to the extent appropriate during schematic design, that shall identify preliminary manpower requirements by critical trade;
- .3 cost evaluations of alternative materials and systems;
- .4 a schedule analysis of alternative phasing and sequencing;
- .5 a preliminary Subcontracting Plan;
- .6 preliminary Subcontractor prequalification criteria as described under Article 4;
- .7 a preliminary Site Logistics Plan indicating how the CM intends to use the Site and illustrating things such as areas to be used for lay down of material and equipment; office and storage trailer locations; vehicular access gates with ingress and egress routes; locations of wheel wash and concrete truck wash out activities; and offloading and hoisting locations; and
- .8 an updated Staffing Plan.

5.4.6 Schematic Design Documents Review.

5.4.6.1 The Contracting Authority, the Owner, the A/E, and the CM shall meet to review the provisional Schematic Design Documents and the CM's Schematic Design Stage Submission and to reach agreement on any Owner-authorized adjustments to the Approved Program of Requirements, Project Schedule, or Construction Budget and any necessary clarifications of the Schematic Design Documents and the CM's Schematic Design Stage Submission.

5.4.6.2 Unless that Contracting Authority agrees otherwise in writing, within five business days after the review meeting, the A/E and CM shall revise their respective Schematic Design Stage submissions to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to each other, the Owner, and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Schematic Design Stage Submissions and sign the related Design

Review Acceptance form, the revised Schematic Design Stage Submissions shall become the final Schematic Design Documents.

5.5 Design Development Stage

5.5.1 Commencement.

5.5.1.1 Unless the Contracting Authority agrees otherwise in writing, the Design Development Stage Construction Documents Stage will begin upon the completion of the activities described in Section 5.4.6.

5.5.2 In addition to performing those services required to comply with Section 5.5.5, during the Design Development Stage, the CM shall:

5.5.2.1 advise the Contracting Authority, the Owner, and the A/E in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

5.5.2.2 meet with the Contracting Authority, the Owner, and the A/E at intervals acceptable to the Contracting Authority and the Owner, to review Drawings and other documents which depict the current status of the Design Development Stage of the Project;

5.5.2.3 schedule any necessary meetings with the A/E and the Contracting Authority and provide recommendations and information for discussion at such meetings regarding the assignment of responsibilities for refuse removal and for safety precautions and programs; temporary Project facilities and utilities, weather protection, fire protection and scaffolding; and equipment, materials and services for common use of Subcontractors, if any;

5.5.2.4 develop estimates of the Construction Cost in increasing detail;

5.5.2.5 develop the Construction Progress Schedule in increasing detail taking into account A/E-provided information and related requirements and the Owner's occupancy requirements;

5.5.2.6 update and re-issue the Project Schedule as necessary to keep the Contracting Authority, the Owner, and the A/E apprised of the schedule's current status;

5.5.2.7 refine the analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical portions of the Work;

5.5.2.8 make recommendations to the Contracting Authority, the Owner, and the A/E for actions designed to minimize adverse effects of labor shortages;

5.5.2.9 assist the Owner and A/E with filing documents required for the approvals of governmental authorities with jurisdiction over the Project; and

5.5.2.10 provide recommendations on value engineering, constructability, logistics, site use and improvements, availability and suitability of materials, equipment, labor and systems, long-lead items, safety and security plans, quality control, time requirements for construction, and factors related to the cost of the Project including costs of alternative designs or materials, preliminary budgets and possible economies.

5.5.3 Life Cycle Cost Analysis.

5.5.3.1 The A/E will submit the revised Life Cycle Cost Analysis to the CM. The CM shall promptly review, comment on, and forward the revised Life Cycle Cost Analysis with the CM's comments to the Owner and Contracting Authority.

5.5.4 Review of Provisional Design Development Documents.

5.5.4.1 Upon completion of the Design Development Stage, the A/E shall submit to the CM the provisional Design Development documents, which shall include the Design Intent Statement.

5.5.4.2 Within ten business days after receiving the provisional Design Development Documents, the CM shall review the documents in detail. At the completion of that review, the CM shall provide a written

“Opinion of Document Characteristics” to the Contracting Authority and the Owner, and send a copy of the Opinion to the A/E.

5.5.4.3 Through that Opinion, the CM shall document the CM’s opinion of the provisional Design Development Documents in terms of what the CM would reasonably expect to see in design development documents on a similar project. The Opinion shall individually address each of the following topics at a minimum:

- .1 clarity of the documents;
- .2 completeness of the documents;
- .3 coordination of the documents;
- .4 constructability of the Work described in the documents;
- .5 whether the Work described in the documents appears consistent with the Project’s budget requirements; and
- .6 whether the Work described in the documents appears consistent with the Project’s schedule requirements.

5.5.4.4 If it is the CM’s opinion that the provisional Design Development Documents do not reflect what the CM would reasonably expect to see in design development documents on a similar project:

- .1 The CM shall also describe and identify in writing specific examples of the deficiencies.
- .2 The CM shall immediately meet to review the Opinion with the Contracting Authority, the Owner, and the A/E. The Contracting Authority and the Owner will thereafter determine an appropriate course of action, which may include the A/E’s revision and resubmission of the documents and the CM’s re-evaluation of them.
- .3 The CM shall not proceed with its services under Section 5.5.5 until further notice from the Owner.

5.5.5 CM’s Design Development Submission.

5.5.5.1 Within 21 days after the completion of the activities described under Section 5.5.4 (except as provided under Section 5.5.4.4), and on the basis of the A/E’s provisional Design Development Documents and other Owner-provided information, the CM shall prepare the following documents and submit them to the Contracting Authority, the Owner, and the A/E:

- .1 an updated Project Schedule;
- .2 a detailed, unit-cost estimate of the Construction Cost (“Design Development Estimate”) which shall include reasonable contingencies for design, bidding, and price escalation;
 - .1 If the Design Development Estimate exceeds the Construction Budget by more than 5% of the Budget or exceeds the A/E’s design development estimate of the Construction Cost by more than 5% of that estimate, the Contracting Authority may require the CM to immediately work with the A/E to develop viable proposals to reconcile the estimates with each other and the Construction Budget. The CM will present those proposals as an addendum to its Design Development Stage submission.
- .3 a written description of all proposed or previously agreed upon Alternates (if any);
- .4 a written description of all proposed or previously agreed upon Allowances (if any);
- .5 a developed Construction Progress Schedule (“Design Development Schedule”) for the entire Project;
- .6 a refined Subcontracting Plan including a (1) proposed list of prequalified prospective Bidders for each Bid package and (2) a proposed Bidding schedule;
- .7 the fully developed Subcontractor prequalification criteria as described under Article 4;
- .8 a cash-flow forecast for the Project;
- .9 a refined Site Logistics Plan; and
- .10 an updated Staffing Plan.

5.5.6 Design Development Documents Review.

5.5.6.1 The Contracting Authority, the Owner, the A/E, and the CM shall meet to review the provisional Design Development Documents and the CM's Design Development Stage Submission and to reach agreement on any Owner-authorized adjustments to the Approved Program of Requirements, Project Schedule, or Construction Budget and any necessary clarifications of the Design Development Documents and the CM's Design Development Stage Submission.

5.5.6.2 Unless that Contracting Authority agrees otherwise in writing, within five business days after the review meeting, the A/E and CM shall revise their respective Design Development Stage submissions to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to each other, the Owner, and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Design Development Stage Submissions and sign the related Design Review Acceptance form, the revised Design Development Stage Submissions shall become the final Design Development Documents.

5.6 GMP Proposal and Amendment

5.6.1 Commencement.

5.6.1.1 Unless the Contracting Authority agrees otherwise in writing, the GMP Proposal and Amendment process will begin upon the completion of the activities described in Section 5.5.6.

- 1 This Section 5.6 and related provisions of this Contract are based upon the assumption that there will be only one GMP Amendment for the Project. The parties recognize, however, that during the Preconstruction Stage, they may decide to use more than one GMP Amendment for the Project in order to accommodate Phased construction. In that case, the parties will execute a GMP Amendment for each Phase with each amendment after the first one supplementing the previous amendment(s).

5.6.2 Within seven days after the start of the GMP Proposal and Amendment process, the CM shall prepare and submit the GMP Proposal to the Contracting Authority and the Owner, and send a copy of it to the A/E.

5.6.2.1 The purpose of the GMP Amendment is to establish the commercial terms of the Contract rather than to modify its substantive terms.

5.6.2.2 The CM shall provide in the GMP Proposal for the A/E's further development of the Construction Documents consistent with and reasonably inferable from the final Design Development Documents.

5.6.3 The CM shall include the following documents and information in the GMP Proposal:

5.6.3.1 a completed and signed proposed GMP Amendment, through which the CM proposes the Contract Sum, the Cost of the Work, the CM's Fee, the CM's Contingency, and the Contract Times (the required form of the GMP Amendment is attached to the Agreement);

5.6.3.2 a complete list of the final Design Development Documents (including the Design Intent Statement) upon which the GMP Proposal is based;

5.6.3.3 a complete list of the assumptions and clarifications made by the CM in the preparation of the GMP Proposal;

5.6.3.4 a detailed estimate of the Construction Cost which (1) allocates the cost of each of item of trade Work to labor and materials/equipment organized by trade categories and clearly identifies whether the CM proposes that the Work will be performed by the CM, a CM Affiliated Entity, or a Subcontractor; (2) provides a detailed breakdown of the CM's Construction Stage Personnel Costs and General Conditions Costs; and (3) does not contain a lump-sum estimate for any item other than the CM's Fee and the CM's Contingency;

5.6.3.5 the current Project Schedule;

5.6.3.6 the current Construction Progress Schedule;

- 5.6.3.7 an updated Staffing Plan including an outline of the qualifications and experience of the CM's proposed project manager and proposed superintendent, including references, unless the CM previously submitted that information and the CM's project manager and superintendent were approved;
- 5.6.3.8 a detailed scope-of-Work description for each anticipated Subcontract;
- 5.6.3.9 a detailed scope-of-Work description for all Work the CM proposes to perform itself or through a CM Affiliated Entity if the requirements of Section 4.5 are met (otherwise this scope of Work will be performed by a Subcontractor);
- 5.6.3.10 a complete list of all Allowances (if any) including a detailed description with related measurement and payment terms;
- 5.6.3.11 a complete list of all Unit Price Work (if any) including a detailed description with related measurement and payment terms;
- 5.6.3.12 a complete list of all Alternates (if any) including a detailed description with related measurement and payment terms; and
- 5.6.3.13 a complete list of all performance incentives/bonuses (if any) applicable to the Work including a detailed description of the incentives/bonuses and related measurement/entitlement and payment terms.
- 5.6.4 By submitting a GMP Proposal or a revised GMP Proposal (as applicable), the CM represents and affirms that:
- 5.6.4.1 the GMP Documents are sufficient to provide for the completion of the Work, and include all Work, whether or not shown or described, which may be reasonably inferred to be required or useful for the completion of the Work in accordance with Applicable Law and customary standards of the construction industry; and
- 5.6.4.2 the CM is familiar with Applicable Law and reasonably observable local and Site conditions that may in any manner affect cost, progress, or performance of the Work.
- 5.6.5 The Contracting Authority, the Owner, the A/E, and the CM shall meet to review the GMP Proposal and to agree on necessary clarifications or adjustments of the GMP Proposal. Unless the Contracting Authority agrees otherwise in writing, within five business days after the review meeting, the CM shall revise the GMP Proposal to reflect the clarifications and adjustments, and resubmit it to the Contracting Authority, the Owner, the A/E. Thereafter, the Contracting Authority, the Owner, the A/E, and the CM shall meet to review the revised GMP Proposal and to agree on necessary clarifications or adjustments of the GMP Proposal.
- 5.6.6 If the CM's proposed Contract Sum exceeds the Design Development Estimate (as adjusted on account of CM proposals intended to reconcile that estimate with the Construction Budget that the Contracting Authority has accepted), the Contracting Authority may in its complete discretion (1) require the CM to re-perform previously completed Preconstruction Services as necessary to reconcile the Contract Sum with the Design Development Estimate; or (2) terminate the Agreement.
- 5.6.6.1 If the Contracting Authority chooses to proceed under Section 5.6.6 clause (1), the Contracting Authority may require the CM to re-perform previously completed Preconstruction Services as many times as necessary to reconcile the proposed Contract Sum with the Design Development Estimate (as adjusted on account of CM proposals intended to reconcile that estimate with the Construction Budget that the Contracting Authority has accepted).
- 5.6.7 The period for the Contracting Authority's acceptance of the proposed GMP Amendment will be no less than the later of the date 30 days after the date of the initial review meeting under Section 5.6.5 or the date ten days after the date of any subsequent review meeting under Section 5.6.5. After expiration of the acceptance period, the GMP Proposal will not be effective without written acceptance by the CM.
- 5.6.8 Subject to Section 5.6.8.1, the GMP Amendment shall become binding and effective upon execution by the Contracting Authority, the Owner, and the CM. Thereafter, the GMP Amendment, and the Work will be subject to additions and deductions as provided in the Contract Documents.

5.6.8.1 It is expressly understood by the CM that none of the rights, duties, and obligations described in the GMP Amendment shall be valid and enforceable unless the Director of the Office of Budget and Management first certifies that there is a balance in the Owner's appropriation not already encumbered to pay existing obligations.

5.6.9 The Contracting Authority may direct the A/E to revise the Design Development Documents to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the GMP Amendment.

5.6.10 Before the Contracting Authority accepts the GMP Proposal and issues a Notice to Proceed, the CM shall not incur any cost under the Contract Sum without the Contracting Authority's prior written authorization.

5.7 Construction Documents Stage

5.7.1 Commencement.

5.7.1.1 Unless the Contracting Authority agrees otherwise in writing, the Construction Documents Stage will begin upon the completion of the activities described in Section 5.6.

5.7.2 In addition to performing those services required to comply with Section 5.7.9, during the Construction Documents Stage, the CM shall:

5.7.2.1 advise the Contracting Authority, the Owner, and the A/E in writing if at any time it appears that the Project Schedule or Construction Budget may be exceeded and make recommendations for corrective action;

5.7.2.2 meet with the Contracting Authority, the Owner, and the A/E at intervals acceptable to the Contracting Authority and the Owner, to review Drawings and other documents which depict the current status of the Construction Documents Stage of the Project;

5.7.2.3 notify the Contracting Authority, the Owner, and the A/E in writing of any revision of the Project that would cause a change in the Contract Sum or Contract Times.

.1 If the Contracting Authority and the Owner approve of any such revision, the parties shall prepare and execute a related Change Order.

5.7.2.4 update and re-issue the Project Schedule and Construction Progress Schedule as necessary to keep the Contracting Authority, the Owner, and the A/E apprised of the schedules' current status;

5.7.2.5 prepare a Schedule of Values as described under Section 9.2.8;

.1 The CM shall submit the Schedule of Values to the A/E and Contracting Authority and secure their approval of it before the completion of the Construction Documents Stage.

5.7.2.6 develop, prepare, and compile all forms and information needed to properly bid and complete the Project including without limitation the "front-end" of the Project Manual;

5.7.2.7 work with the A/E to prepare Division 01 of the Specifications (the CM shall not amend the General Conditions except by Special Conditions approved by the Contracting Authority in writing);

5.7.2.8 ensure that the scopes of Work of the various Subcontractors is coordinated, all requirements for the Project have been assigned to the appropriate subcontract, the likelihood of jurisdictional disputes between trades has been minimized, and proper coordination has been provided for Phased construction (if any);

5.7.2.9 refine the analysis of the types and quantities of labor required for the Project and review the availability of appropriate categories of labor required for critical portions of the Work;

5.7.2.10 make recommendations to the Contracting Authority, the Owner, and the A/E for actions designed to minimize adverse effects of labor shortages;

5.7.2.11 assist the Owner and A/E with filing documents required for the approvals of governmental authorities with jurisdiction over the Project; and

5.7.2.12 provide recommendations on value engineering, constructability, logistics, site use and improvements, availability and suitability of materials, equipment, labor and systems, long-lead items, safety and security plans, quality control, time requirements for construction, and factors related to the cost of the Project including costs of alternative designs or materials, preliminary budgets and possible economies.

5.7.3 During the A/E's completion of the Contract Documents:

5.7.3.1 The CM shall verify that the Drawings and Specifications include requirements and assignment of responsibilities for safety precautions and programs and for temporary facilities for common use of the CM and Subcontractors.

5.7.3.2 The CM shall review the Drawings and Specifications for each Bid package to minimize areas of conflict, gaps, and overlaps in the Work to be performed by the various Subcontractors.

5.7.3.3 In conjunction with the A/E, the CM shall identify areas that the CM recognizes as having incomplete documentation and uncoordinated multi-discipline Work.

5.7.3.4 With the prior written consent of the Owner, the CM shall assist the A/E to develop and include Alternates in the Contract Documents.

5.7.4 No less than 30 days before the scheduled date for the completion of the Construction Documents, the CM and the A/E shall jointly deliver to the Contracting Authority for review the entire, fully prepared and compiled "front-end" of the Project Manual and Division 1 of the Specifications.

5.7.5 On the date which marks the expiration of 75% of the time allotted in the Project Schedule for the Construction Documents Stage, the A/E shall make the then-current Construction Documents ("75% Construction Documents progress submission") available for the CM to allow the CM to begin to prepare Bid documents such as Bid forms and Subcontractor scopes of work.

5.7.6 As the Drawings and Specifications are developed, the A/E shall inform the CM, the Owner, and the Contracting Authority of the need for any changes in Project requirements or in construction materials, systems, or equipment and of the need for any adjustments in the Detailed Estimate of Construction Cost and the Project Schedule.

5.7.7 Upon prior written approval of the Owner and the Contracting Authority of any such changes or adjustments in Project requirements or in construction materials, systems, or equipment, the CM, with the assistance of the A/E, shall revise the Detailed Estimate of Construction Cost and Project Schedule, as applicable, incorporating such changes or adjustments.

5.7.8 Review of Provisional Construction Documents.

5.7.8.1 Upon completion of the Construction Documents Stage, the A/E shall submit the provisional Construction Documents to the CM.

5.7.8.2 Within seven days after receiving the provisional Construction Documents, the CM shall review the documents in detail. At the completion of that review, the CM shall provide a written "Opinion of Document Characteristics" to the Contracting Authority and the Owner, and send a copy of the Opinion to the A/E.

5.7.8.3 Through that Opinion, the CM shall document the CM's opinion of the provisional Construction Documents in terms of what the CM would reasonably expect to see in construction documents on a similar project. The Opinion shall individually address each of the following topics at a minimum:

- .1 clarity of the documents;
- .2 completeness of the documents;
- .3 coordination of the documents;
- .4 constructability of the Work described in the documents; and

- .5 whether the Work described in the documents is consistent with the GMP Documents, the Contract Sum, and the Contract Times.

5.7.8.4 The CM shall include with the Opinion a detailed description of any change in the scope of the Work described in the Construction Documents as compared to the scope of the Work described in the GMP Documents and an estimate of the cost and time impact of each change.

5.7.8.5 If it is the CM's opinion that the provisional Construction Documents do not reflect what the CM would reasonably expect to see in construction documents on a similar project:

- .1 The CM shall also describe and identify in writing specific examples of the deficiencies.
- .2 The CM shall immediately meet to review the Opinion with the Contracting Authority, the Owner, and the A/E. The Contracting Authority and the Owner will thereafter determine an appropriate course of action, which may include the A/E's revision and resubmission of the documents and the CM's re-evaluation of them.
- .3 The CM shall not proceed with its services under Section 5.7.9 until further notice from the Owner.

5.7.9 CM's Construction Documents Submission.

5.7.9.1 Within 14 days after the completion of the activities described under Section 5.7.8 (except as provided under Section 5.8.4.3), and on the basis of the A/E's provisional Construction Documents and other Owner-provided information, the CM shall prepare the following documents and submit them to the Contracting Authority, the Owner, and the A/E:

- .1 an updated Staffing Plan;
- .2 an updated Project Schedule;
- .3 a fully developed Construction Progress Schedule;
- .4 a fully developed Submittal Schedule;
- .5 a detailed constructability review of the Construction Documents;
- .6 a fully developed Schedule of Values;
- .7 a revised cash-flow forecast for the Project;
- .8 a fully developed Subcontracting Plan including a (1) detailed list of prequalified prospective Bidders for each Bid package and (2) a refined Bidding schedule; and
- .9 a fully developed Site Logistics Plan.

5.7.10 Construction Documents Review.

5.7.10.1 The Contracting Authority, the Owner, the A/E, and the CM shall meet to review the provisional Construction Documents and the CM's Construction Documents Stage Submission and to reach agreement on any Owner-authorized adjustments to the Approved Program of Requirements, Project Schedule, or Construction Budget and any necessary clarifications of the Construction Documents and the CM's Construction Documents Stage Submission.

5.7.10.2 Unless that Contracting Authority agrees otherwise in writing, within five business days after the review meeting, the A/E and CM shall revise their respective Construction Documents Stage submissions to reflect the adjustments and clarifications agreed upon in the review meeting, and resubmit those documents to each other, the Owner, and the Contracting Authority. When the Contracting Authority and the Owner approve of the revised Construction Documents Stage Submissions and sign the related Design Review Acceptance form, the revised Construction Documents Stage Submissions shall become the final Construction Documents, subject to (1) execution of an appropriate Modification to incorporate the adjustments into the Contract and (2) further revisions as provided in the General Conditions.

5.8 Building and Trade Permits and Licenses

5.8.1 Plan Approval.

5.8.1.1 The A/E shall secure the required structural, plumbing, HVAC, and electrical plan approvals from the Ohio Department of Commerce, Division of Industrial Compliance.

- .1 If the Project is not on State property, the A/E shall secure the plan approvals from the local certified building department with jurisdiction.

5.8.1.2 The CM shall schedule and attend all intermediate and final inspections required for any permit applicable to the Work. The CM shall schedule the State Fire Marshal or local fire authority for the life safety inspection for occupancy permits. The CM shall give the A/E, the Contracting Authority, and the Owner reasonable notice of the dates and times arranged for inspections.

- .1 The CM shall pay for any reinspections required as a result of the CM's failure to receive approval of its Work.

5.8.2 Trade Permits and Licenses.

5.8.2.1 The CM shall obtain, maintain, and pay for any permit, inspection, or license applicable to the CM's particular trade.

5.8.3 Local Permits.

5.8.3.1 The CM shall secure and pay the fees for any permits, inspections, licenses, capacity charges, or tap fees required by local authorities having jurisdiction over the Project. The CM shall give the A/E, the Contracting Authority, and the Owner reasonable notice of the date arranged for inspections.

5.8.4 National Pollutant Discharge Elimination System ("NPDES") Storm Water General Permit.

5.8.4.1 The A/E shall secure the NPDES general permit by submitting a Notice of Intent ("NOI") application form to the Ohio Environmental Protection Agency at least 45 days prior to the start of construction.

5.8.4.2 The A/E shall prepare and certify a storm water pollution prevention plan to provide sedimentation and erosion controls at the Project.

5.8.4.3 The A/E shall prepare and process the required Notice of Termination ("NOT") prior to Contract Completion.

ARTICLE 6 - CONSTRUCTION AND CLOSEOUT

6.1 Commencement of Work on the Site

6.1.1 Unless the Contracting Authority agrees otherwise in writing, the Construction Stage will commence with the Contracting Authority's issuance of the Notice to Proceed and will terminate upon Final Acceptance of the Project.

6.2 CM's General Responsibilities

6.2.1 Consistent with the CM Staffing Plan approved by the Contracting Authority, the CM shall maintain a competent, full-time staff at the Site at all times that Work is in preparation or progress on the Project and shall establish and implement on-Site organization and authority so that the Work is accomplished in conformance with the Project Schedule.

6.2.2 The CM must perform the Work so as not to interfere with, disturb, hinder, or delay the services of Separate Consultants or the work of Separate Contractors. The CM must cooperate and coordinate fully with all Separate Consultants and Separate Contractors and must freely share all of the CM's Project-related information with them to facilitate the timely and proper performance of the Work and of the services and work of the Separate Consultants and Separate Contractors.

6.2.3 The CM must afford every Separate Consultant and Separate Contractor proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of their services and work.

6.2.4 If the CM damages the property or work of any Separate Consultant or Separate Contractor, or by failure to perform the Work with due diligence, delays, interferes with, hinders, or disrupts the services of any Separate Consultant or the work of any Separate Contractor who suffers additional expense and damage as a result, the CM is responsible for that damage, injury, or expense.

6.2.5 The intent of Sections 6.2.2 through 6.2.4 is to benefit the Separate Consultants and Separate Contractors, and to demonstrate that the Separate Consultants and Separate Contractors are intended third-party beneficiaries of the CM's obligations under the Contract.

6.2.6 If the proper execution or results of any part of the Work depends upon work performed or services provided by the Owner, a Separate Consultant, or a Separate Contractor, the CM must inspect that other work and appropriate instruments of service, and promptly report to the Contracting Authority in writing any defects or deficiencies in that other work or services that render it unavailable or unsuitable for the proper execution and results of the Work. The CM's failure so to report will constitute an acceptance of the other work and services as fit and proper for integration with the CM's Work except for defects and deficiencies in the other work or services that were not reasonably discoverable at the time of the CM's inspection.

6.2.7 The CM must not delay the Work on account of any claim, dispute, or action between the CM and a Separate Consultant or Separate Contractor.

6.2.8 The CM shall develop and keep current the Construction Progress Schedule in accordance with Section 6.5, and prepare and keep current a schedule of submittals that is coordinated with the Construction Progress Schedule, for the A/E and Contracting Authority's acceptance.

6.2.9 The CM shall monitor the progress of the Work for conformance with the Construction Progress Schedule and shall initiate revisions as required by Section 6.5.14.

6.2.10 The CM shall establish the Project's regular working hours, subject to the Owner's approval.

6.2.11 The CM shall coordinate the Work with the activities and responsibilities of the Owner, the A/E, and the Contracting Authority to complete the Project in accordance with the Contract Documents.

6.2.12 In the event of default of the CM, the CM shall cooperate with the A/E, the Owner, the Contracting Authority, and the CM's Surety to achieve the Contract Completion date.

6.2.13 The CM shall remove all snow and ice as may be required for reasonably safe access to the Site including, but not limited to, building entries, driveways, parking lots and sidewalks.

6.2.14 The CM shall keep a daily log containing a record of weather, number of workers on Site for the CM, identification of equipment, Work accomplished, problems encountered, and other similar relevant data.

6.3 Construction Procedures

6.3.1 The CM is solely responsible for and has control over all construction means, methods, manners, techniques, sequences, and procedures, for safety precautions and programs in connection with the Work, and for coordinating all portions of the Work.

6.3.1.1 If the Contract Documents give instructions that affect construction means, methods, manners, techniques, sequences, or procedures, the CM shall evaluate the jobsite safety of them and, except as stated below, shall be fully and solely responsible for the jobsite safety of the means, methods, manners, techniques, sequences, or procedures.

6.3.1.2 If the CM determines that the means, methods, manners, techniques, sequences, or procedures may not be safe, the CM shall give timely written notice to the Owner, the A/E, and the Contracting Authority.

The CM shall not proceed with that portion of the Work without further written instructions from the A/E in accordance with Article 7.

6.3.2 The CM shall lay out and coordinate all lines, levels, elevations, and measurements for all the Work, coordinate and verify existing conditions, and notify the A/E of discrepancies and conflicts before proceeding with installation or excavation.

6.3.3 The CM shall perform all cutting, fitting, or patching required for the Work and shall not endanger the Project by cutting, excavating, or otherwise altering the Project, or any part of it.

6.3.3.1 If the CM requires sleeves for the Work, the CM shall furnish and install the sleeves. The CM is responsible for the exact location and size of all holes and openings required to be formed or built for the Work.

6.3.3.2 The CM's patching shall match and blend with the existing or adjacent surface(s).

6.3.4 The CM shall comply with ORC Sections 3781.25 through 3781.32. In addition, before starting excavation or trenching, the CM shall determine the location of any underground utilities and notify any public authority or utility having jurisdiction over the Project and secure any required approval.

6.3.4.1 The CM shall give notice at least 2 business days in advance of excavation to the owners of underground utilities registered with the Ohio Underground Utility Protection Services ("OUPS" at <http://oups.org>, phone 811 or 800-362-2764), and the owners of underground utilities shown on the plans and specifications who are not registered members of OUPS. The owner of an underground utility is required within 48 hours notice to stake, mark, or otherwise designate the location of its utilities in the construction area together with its approximate depth. In the event that any underground utility owner fails to timely perform, the CM shall notify the A/E and contact the owner of the underground utility.

6.3.5 The CM shall install all Work in accordance with the Contract Documents and any installation recommendations of the manufacturer, including required temperature and humidity limits for installation of the various materials.

6.3.6 The CM shall comply with all requirements and conditions of the NPDES general permit, including, but not limited to, implementing and maintaining the sedimentation and erosion control measures specified in the storm water pollution prevention plan prepared by the A/E pursuant to Section 5.8.4, which are related to the Work, maintaining records of its construction activities, removing materials no longer required, and taking proper action if there is a reportable quantity spill.

6.4 Construction Supervision

6.4.1 Unless waived by the Contracting Authority in writing, the CM shall provide continuous supervision at the Site by a competent superintendent when any Work is being performed and the CM's superintendent shall not be involved with any work other than the Project.

6.4.2 The CM's project manager and superintendent shall each have the responsibility and authority to act on behalf of the CM. All communications to the CM's project manager or superintendent shall be binding as if given directly to the CM.

6.4.3 For all Subcontracts in excess of \$200,000, the CM shall submit an outline of the qualifications and experience of the Subcontractor's proposed project manager and proposed superintendent, including references, to the Contracting Authority no less than 10 days before the Subcontractor is scheduled to begin Work on the Site. For all other Subcontracts, upon receiving a request from the Contracting Authority, the CM shall submit an outline of the qualifications and experience of the Subcontractor's proposed project manager and proposed superintendent, including references, to the Contracting Authority.

6.4.3.1 The Contracting Authority may reject the Subcontractor's proposed project manager or proposed superintendent. If the Contracting Authority does not notify the CM of the rejection within 30 days after receiving the required information, it shall indicate that the Contracting Authority has no objection, but

does not affect the Contracting Authority's rights under Section 6.13.2 or any other provision relative to that project manager or superintendent.

6.4.3.2 If the Contracting Authority rejects the Subcontractor's proposed project manager or proposed superintendent, the CM shall cause the Subcontractor to replace the project manager or superintendent (as appropriate) with someone acceptable to the Contracting Authority at no additional cost.

6.4.4 The CM and its Subcontractors subject to Section 6.4.3 shall not replace their respective project managers or superintendents without prior written approval of the Contracting Authority.

6.4.4.1 If the CM or a Subcontractor subject to Section 6.4.3 proposes to change its project manager or superintendent, the CM shall submit written justification for the change to the Contracting Authority, along with the name and qualifications of the proposed replacement.

6.4.4.2 The procedure provided in Section 6.4.3 shall be conducted to evaluate the CM's or Subcontractor's (as applicable) proposed replacement project manager or superintendent.

6.5 Construction Progress Schedule

6.5.1 The CM shall prepare and maintain a resource-loaded Construction Progress Schedule using the critical-path method of scheduling that provides the following information:

6.5.1.1 a graphic presentation of the sequence of the Work for the Project in the media and format required for the Project;

6.5.1.2 identification of each stage of the Work and any Milestone dates;

6.5.1.3 identification of activities and durations for review and approval of Shop Drawings and other action submittals, fabrication and review of mock-up Work, product review and procurement, fabrication, shop inspection, and delivery, including, but not limited to, lead time, coordination drawing delivery, Punch List, Punch List Correction, Project close-out requirements, Contract Completion, and occupancy requirements;

6.5.1.4 identification of disruptions and shutdowns due to other operations;

6.5.1.5 identification of the critical path of the Work;

6.5.1.6 identification of the crew size and total resource hours for each activity in the schedule; and

6.5.1.7 the CM's signature and date indicating approval.

6.5.2 The CM shall develop the Construction Progress Schedule using commercially available, personal computer software that is acceptable to the Contracting Authority and shall submit all baseline and updated schedules to the A/E in electronic format.

6.5.3 The Construction Progress Schedule shall not exceed the time limits current under the Contract Documents, shall provide for reasonable, efficient, and economical execution of the Project, and shall relate to the entire Project to the extent required by the Contract Documents.

6.5.4 The CM shall use the Construction Progress Schedule to plan, organize, and execute the Project, record and report actual performance and progress, and show how it plans to coordinate and complete all remaining Work within applicable Milestones. The Project participants shall use the Construction Progress Schedule as a tool for scheduling and reporting sequenced progress of the Work. The CM shall provide a clear graphics legend and other data including, but not limited to, Milestone dates, constraints, and other items required by the Project, the A/E, the Contracting Authority, and the Owner. Each submission shall show the Contracting Authority's Project number and Project name, and provide a signature approval and date line for the CM.

6.5.5 The CM shall provide in each schedule: Activity identification and description for each activity broken down to a maximum duration that is appropriate for the activity, responsibility of the CM, CM's resources and crew size for each activity, provide early start, early finish, late start, late finish. Each schedule shall show

predecessor activities and successor activities for each activity, entry free float, total float, and percentage of completion, and identify the appropriate predecessors and successors for all related activities.

6.5.6 The Construction Progress Schedule shall show all submittal dates, coordination drawing preparation, Shop Drawings submittals, and mock-up review and approval durations.

6.5.7 The CM shall submit the initial and all updates of the Construction Progress Schedule in graphic and tabular form to the A/E. With each monthly schedule update, the CM shall include a list of all changes to the previously approved baseline schedule or monthly updated schedule.

6.5.7.1 Upon receipt of the Construction Progress Schedule, the A/E shall review and submit a copy of the Construction Progress Schedule to the Contracting Authority and the Owner for review and acceptance, or reject it, and return it to the CM with recommendations for revisions.

6.5.8 The Construction Progress Schedule shall be managed using early start dates and early finish dates. The CM shall exhaust existing float before claiming additional time for a Change Order, or show that it is not possible to use float to cover the time requirements of the Change Order.

6.5.9 The CM's failure to timely submit and properly maintain an approved Construction Progress Schedule may result in withholding payment in accordance with Section 9.2.13.2.

6.5.10 For each progress meeting, the CM shall provide a 2- to 6-week look-ahead schedule, as appropriate for the Project.

6.5.11 On a weekly basis, the CM shall prepare and submit to the A/E a written report describing:

6.5.11.1 activities begun or finished during the preceding week;

6.5.11.2 activities in progress and expected completion;

6.5.11.3 activities to be started or finished in the upcoming 2 weeks, including but not limited to, the CM's workforce size and total resource hours associated with those activities; and

6.5.11.4 other information requested by the A/E.

6.5.12 The A/E shall attach the above information to the minutes of the weekly progress meetings.

6.5.13 The CM shall provide monthly Progress Status Reports to the Contracting Authority, the A/E, and the Owner, which shall include recommendations for adjusting the Construction Progress Schedule to meet Milestone dates and the Contract Completion date.

6.5.13.1 If it is apparent to the A/E that the CM may be unable to meet critical path activities, Milestone completion dates, or the Contract Completion date; the A/E shall direct the CM to submit within 3 days a recovery plan to avoid or minimize the delay to the Project.

6.5.13.2 A recovery plan shall include, but is not limited to, adjustments to one or more of the following:

- .1 workforce
- .2 hours per shift
- .3 shifts per workday
- .4 workdays per week
- .5 equipment
- .6 activity logic

6.5.13.3 If the A/E approves the recovery plan, the CM shall prepare a revised Construction Progress Schedule that shall be signed and approved in accordance with Section 6.5.7.1. If the A/E does not approve a time recovery plan, the CM shall submit within 3 days an alternate recovery plan to the A/E in writing for review and approval in accordance with Section 6.5.7.1.

6.5.14 The CM shall update the Construction Progress Schedule on a monthly basis, or other interval approved by the Contracting Authority, in accordance with Section 6.5.7.1.

6.5.14.1 The updated Construction Progress Schedule signed by the CM shall serve as an affirmation that the CM can meet the requirements of the updated Construction Progress Schedule.

6.5.14.2 The CM shall submit a tabular copy showing all changes to the previously approved schedule including, but not limited to, logic, float, and actual start date of activities. The original or initially approved Construction Progress Schedule and all subsequent Construction Progress Schedules submitted by the CM, and accepted by the A/E, shall serve as an affirmation that the CM agrees to and can meet the applicable requirements of the updated Construction Progress Schedule.

6.5.15 The CM's failure to timely submit an approved, updated Construction Progress Schedule may result in withholding payment in accordance with Section 9.2.13.2.

6.6 Progress Meetings

6.6.1 The A/E shall schedule a weekly progress meeting for the CM and other Persons involved in the Project. The purpose of the progress meeting is to review progress on the Project during the previous week, discuss anticipated progress during the following weeks, review critical operations, and discuss critical problems.

6.6.2 The CM shall be represented at every progress meeting by a Person authorized with signature authority to make decisions regarding possible modification of the Contract Documents or Construction Progress Schedule.

6.6.2.1 The A/E shall notify the CM and other Persons involved in the Project of the time and place of the progress meeting that shall thereafter be the same day and hour of the week for the duration of the Project, unless the A/E notifies the CM and other Persons involved in the Project of a different day and hour at least 2 days in advance.

6.6.2.2 The CM shall have any of its Subcontractors attend the progress meeting as determined advisable by the CM, or as requested by the A/E.

6.6.3 The A/E shall prepare a written report of each progress meeting and distribute the report to the Contracting Authority, the Owner, and the CM. The A/E shall not delegate the duty to prepare a written report of any progress meeting.

6.6.3.1 If any Person in attendance objects to anything in a report of a progress meeting, the Person shall notify the A/E, the Contracting Authority, and any other affected Person in writing explaining the objection within 5 days.

6.6.3.2 The report of each progress meeting shall reflect any objection made to the report of the previous progress meeting and any response.

6.7 Project Coordination Meetings

6.7.1 The CM shall schedule and conduct at least one weekly coordination meeting for the CM and appropriate Subcontractors ("Coordination Participants"). The CM shall notify the A/E, Contracting Authority, Owner, and Separate Contractors of the date and time of the weekly coordination meetings so that they may attend.

6.7.1.1 The purpose of the coordination meeting is to discuss the sequence of construction and its relationship with the approved Construction Progress Schedule; to establish the intended location of equipment, pipe, duct, conduit, and other components of the Project; and to coordinate the appropriate shared use of available construction space; especially interstitial spaces, chases and mechanical rooms; and construction storage space.

6.7.1.2 Each Coordination Participant shall be knowledgeable about the Project and the scope of its work. One Person from each Coordination Participant shall have authority to make decisions regarding the coordination process and drawings.

6.7.1.3 Each Coordination Participant shall come to the coordination meetings prepared to demonstrate and furnish documentation that it has anticipated the work of other Persons, and planned its installation. Each Coordination Participant shall coordinate its installation with the work of other Persons.

6.7.1.4 Each Coordination Participant shall utilize documentation and information provided by other Coordination Participants to verify that the utility requirements, physical size, and characteristics of planned equipment are compatible with related or connected equipment, existing or planned building components, and existing or planned utilities.

6.7.1.5 The Coordination Participants shall utilize the documentation and information provided by each of them in determining the actual placement and positioning of equipment and devices to avoid interference with the work of other Persons, building finishes, and architectural details.

6.7.1.6 The Coordination Participants shall utilize the documentation and information provided by each of them to coordinate space requirements and installation considerations to maximize accessibility to equipment and devices for purposes of maintenance, repairs, and replacement.

6.7.1.7 The CM shall prepare a written report of each coordination meeting and distribute the report within 3 business days of the meeting to the A/E, the Contracting Authority, the Owner, the CM, and other Coordination Participants. The CM shall not delegate the duty to prepare a written report of any coordination meeting.

6.8 Coordination Drawings

6.8.1 The CM shall prepare drawings (the "Coordination Drawings") after the Coordination Participants (1) determine the sequence of the Project, (2) complete the activities described under Section 6.7.1, (3) identify the areas requiring special attention ("Coordination Areas"), and (4) determine the need for a coordination drawing for any Coordination Area. The CM shall prepare the Coordination Drawings at one-quarter-inch equals one-foot scale, with Computer-Aided Design ("CAD") or Building Information Modeling ("BIM") software acceptable to the Contracting Authority. The Coordination Drawings shall show the sheet metal work with plan and elevation dimensions, which specifically locate all HVAC ductwork, HVAC equipment, and HVAC piping for each Coordination Area based upon the information, discussion, and resulting consensus of the Coordination Participants during the coordination meetings.

6.8.1.1 After the CM completes the Coordination Drawings, the CM shall forward a copy of the Coordination Drawings to the A/E, the Contracting Authority, the Owner, and other Coordination Participants with work within the limits of a Coordination Area.

6.9 Tests and Inspections

6.9.1 If the A/E or the Contracting Authority determines that any portion of the Work requires special inspection, testing, or approval not otherwise required under the Contract Documents, the A/E shall order such inspection, testing, or approval.

6.9.1.1 If the special inspection, testing, or approval reveals Defective Work, the CM shall pay all associated costs and will not be entitled to any related adjustment of the Contract Times. Those costs may include, but are not limited to:

- .1 the cost of the special inspection, testing, or approval;
- .2 the cost of additional special inspections, testing, or approvals to evaluate remedial Work;
- .3 the cost of correcting the Defective Work; and
- .4 all related Owner-incurred fees and charges of contractors, engineers, architects, attorneys, and other professionals.

6.9.1.2 The Contracting Authority may deduct the costs described under Section 6.9.1.1 from payments then or thereafter due the CM. If payments then or thereafter due the CM are not sufficient to cover those amounts, the CM shall immediately pay the amount of the insufficiency to the Owner.

6.9.1.3 If the special inspection, testing, or approval reveals that the Work complies with the Contract Documents and the CM believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of the special inspection, testing, or approval, the CM may request an adjustment to the Contract by giving written notice under Section 7.3.2.

6.9.2 If the CM is aware of a need for inspection, testing, or approval, or of a need to have any inspection, testing, or approval completed by a particular time to avoid delay, then the CM shall timely communicate such information to the A/E and the Contracting Authority.

6.9.3 Except as described under Section 6.9.1, the Owner shall pay for any inspection, testing, or approval that did not become a requirement until after the Contract Sum is initially established.

6.9.4 The CM shall coordinate with and give the A/E, the Contracting Authority, and the Owner reasonable notice of the anticipated dates of all inspections, testing, or approvals.

6.9.5 Within 5 days after completion of an inspection, testing, or approval, the A/E shall provide an original report/certificate of the inspection, testing, or approval to the CM and the Contracting Authority with a recommendation for or against acceptance of the results therein.

6.10 Review of Contract Documents and Field Conditions

6.10.1 Before starting each portion of the Work, the CM shall carefully study and compare the various Contract Documents relative to that portion of the Work, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the Site affecting it.

6.10.2 If the CM finds any perceived ambiguity, conflict, error, omission, or discrepancy on or between any of the Contract Documents, or between any of the Contract Documents and any Applicable Law, the CM, before proceeding with the Work, shall promptly submit a Request for Interpretation ("RFI") to the A/E for an interpretation or clarification.

6.10.2.1 Before submitting any RFI to the A/E, the CM shall carefully review the Contract Documents to ensure that the Contract Documents do not answer the RFI.

6.10.2.2 The A/E shall respond to an RFI within 3 days of receiving the RFI.

6.10.2.3 Any interpretation or clarification of the Contract Documents made by any Person other than the A/E, or in any manner other than writing, shall not be binding and the CM shall not rely upon it.

6.10.3 If the CM believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of clarifications or instructions issued by the A/E in response to a RFI, the CM may request an adjustment to the Contract by giving written notice under Section 7.3.2 within 7 days of receiving the A/E's RFI response.

6.10.4 If the CM does not notify the A/E per Section 6.10.3, the CM will have accepted the RFI response without an adjustment to the Contract Sum or Contract Times.

6.11 Protection of the Project

6.11.1 The CM shall protect the Work from weather and maintain the Work and all materials, apparatus, and fixtures free from injury or damage until Final Acceptance, or Partial Occupancy if applicable.

6.11.1.1 The CM shall at all times cover or protect the Work.

6.11.1.2 The CM, at its expense, shall remove, and replace with new, any Work damaged as a result of CM's failure to provide coverage or protection.

6.11.1.3 The CM, at its expense, shall repair or replace any adjacent property, including, but not limited to, roads, walks, shrubbery, plants, trees, or turf, damaged during performance of the Work.

6.11.1.4 After the date of Final Acceptance, or Partial Occupancy if applicable, the Owner is responsible for protecting and maintaining all materials, apparatus, and fixtures for the occupied portion of the Project free from injury or damage.

6.11.2 The CM shall protect the Project and existing or adjacent property from damage at all times and shall erect and maintain necessary barriers, furnish and keep lighted necessary danger signals at night, and take reasonable precautions to prevent injury or damage to individuals or property.

6.11.3 The CM shall not load, or permit any part of the Project to be loaded, in any manner that endangers the Project, or any portion thereof. The CM shall not subject any part of the Project or existing or adjacent property to stress or pressure that endangers the Project or property.

6.11.4 The CM shall provide all temporary bracing, shoring, and other structural support required for safety of the Project and proper execution of the Work.

6.11.5 Vibration, Noise, and Dust Control.

6.11.5.1 The CM shall provide controls/barriers for vibrations, noise, and dust control in occupied buildings as required by the construction operations.

6.11.5.2 The CM will not be permitted to exhaust or release unfiltered air, dust, construction debris, or other undesirable products into the exterior atmosphere or into occupied areas of the building outside the Site. The Project Manager may limit or stop the Work if the CM does not maintain proper air-quality standards.

6.11.5.3 In certain occupied buildings, tasks might be of such a nature that noise and vibration cannot be tolerated. In such spaces, Work shall be scheduled for other than normal working hours. The CM is cautioned that weekend or overtime work, if required, shall be performed at no additional cost. Permission to work other than standard hours shall be received from the Contracting Authority prior to the occurrence. Weekend and overtime Work shall be reflected in the Construction Progress Schedule.

6.11.5.4 The CM is responsible for vibration control and control of transmission of noise arising from the Work. Principal considerations which shall be given to noise and vibration control are:

- .1 Noise control in compliance with Occupational Safety and Health Administration (“OSHA”) requirements for the health and safety of building occupants; control shall be for all areas of the facility, including equipment rooms, boiler rooms, and fan rooms.
- .2 Vibration control to limit sound produced by construction equipment, and for protection of the equipment existing in a building and the building structure.
- .3 Vibration control to provide for maximum usefulness of the facility by keeping levels of vibration within ranges which are conducive to study and work or other uses for which the facility is designed.

6.12 Materials and Equipment

6.12.1 The CM shall bring to, or store at, the Site only the materials and equipment required in the Work. If possible, materials and equipment should be installed in their final positions when brought to the Site.

6.12.1.1 The CM shall properly store and protect all materials and equipment it provides to the Project.

6.12.1.2 The CM shall timely remove from the Site any materials or equipment no longer required for the Work.

6.12.2 The CM shall not allow materials or equipment to damage the Project or adjacent property, nor to endanger any individual at, or near, the Site.

6.12.3 If the CM provides an Acceptable Component, the CM shall be solely responsible for the costs of coordination and modification required.

6.12.4 If the CM provides approved Substitutions that require changes to the Contract Documents, the CM shall be solely responsible for the additional costs incurred as a result, including, but not limited to, changes to the design by the A/E.

6.12.5 The A/E shall consider Requests for Substitutions after the Contract Sum is initially established only when the CM can conclusively demonstrate to the A/E the following conditions:

6.12.5.1 the specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions, through no fault of the CM or a Subcontractor, are not available; or

6.12.5.2 the specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions will not perform as designed or intended.

6.12.6 The CM's incorporation of unapproved Substitutions in the Work shall constitute Defective Work.

6.13 Labor

6.13.1 The CM shall maintain a sufficient workforce and enforce good discipline and order among its employees and the employees of its Subcontractors. The CM shall not permit employment of individuals not skilled in tasks assigned to them.

6.13.2 The CM shall dismiss from the Project any individual employed by the CM or a Subcontractor who the Contracting Authority finds, in its sole discretion, to be incompetent, guilty of misconduct, or detrimental to the Project.

6.13.3 The CM shall employ all legal efforts to minimize the likelihood or effect of any strike, Work stoppage, or other labor disturbance. Informational pickets shall not justify any Work stoppage.

6.14 Safety Precautions

6.14.1 The CM shall take reasonable precautions to ensure the safety of individuals on the Project.

6.14.1.1 The CM is responsible for designing and implementing its own safety program, including compliance with OSHA regulations. The CM's safety plans, such as fall protection, hazards, communications, competent person, etc., shall meet or exceed the Owner's safety plan (if any).

6.14.2 The CM shall pay any fine or cost incurred because of the CM's violation, or alleged violation, of Applicable Law.

6.14.3 Before starting any Work:

6.14.3.1 The CM shall submit to the Contracting Authority a copy of the CM's site-specific safety plan and safety manuals.

6.14.4 The CM shall not introduce Hazardous Materials to the Project or burn any fires on the Site.

6.14.4.1 The CM shall notify the Project Manager 24 hours before the start of non-routine or non-recurring hot-work. Use of sources of fire, flame or sparks and flammable materials shall be kept to an absolute minimum. At the beginning of the Project the CM shall inform the Project Manager of the CM's intent to use blowtorches, welding apparatus or similar exposed flame and sparking devices. Similar notice shall be given in regard to the use of flammable liquids, adhesives, and cleaners.

6.14.4.2 The CM shall furnish an appropriate number of fire extinguishers (minimum of 1), which shall be within the immediate areas where work is being done at all times. The extinguisher shall be adequate and suitable for the class of fire likely to be caused by the CM's operations.

6.14.5 Work Stoppage Due to Hazardous Materials.

6.14.5.1 If the CM encounters material the CM reasonably believes to be, or contain, a Hazardous Material, which has not been rendered harmless, the CM shall immediately stop Work in the affected area and

verbally report the condition to the Contracting Authority and the A/E, and within 1 business day deliver written notice of the condition to the Contracting Authority and the A/E.

6.14.5.2 The Contracting Authority will promptly determine the necessity of the Owner retaining a qualified environmental consultant to evaluate the suspected Hazardous Material and to issue a related written report. Where appropriate, the Owner will engage a licensed abatement contractor to remove the material or render it harmless as directed.

6.14.5.3 The CM shall resume Work in the affected area upon written notice from the A/E that (1) the suspect material was evaluated and found not to be or contain a Hazardous Material, or (2) the suspect material has been removed or rendered harmless.

6.14.5.4 If the CM knowingly or negligently proceeds with the Work in an area where a Hazardous Material exists and has not been rendered harmless, the CM shall be solely responsible for all related claims, damages, losses, and expenses, including, but not limited to, attorneys fees, arising out of or resulting from performing the Work in the affected area.

6.14.5.5 The term "rendered harmless" means that the level of exposure is less than any applicable exposure standards set forth in Applicable Law.

6.14.6 Material Safety Data Sheets.

6.14.6.1 The CM shall identify any material it uses at the Site with a Material Safety Data Sheet ("MSDS").

6.14.6.2 The CM shall maintain a notebook containing all of its applicable MSDSs. This notebook shall be kept at the Site for the duration of the Project.

6.15 **Construction Facilities, Utilities, and Equipment**

6.15.1 Facilities.

6.15.1.1 The CM shall provide and maintain in a clean condition suitable temporary facilities, equipment, services, and enclosed storage for its use at the Site.

6.15.1.2 The CM shall provide and maintain in a clean condition:

- .1 Suitable facilities, equipment, and services for use by the A/E and the Contracting Authority;
- .2 Adequate space, equipment, and furnishings to conduct progress meetings, and store approved documents and permits; and
- .3 Adequate sanitary facilities for use by all Persons at the Site.

6.15.2 Environmental Controls.

6.15.2.1 The CM shall protect its Work and materials from weather and damage from heat, cold, and humidity.

6.15.2.2 Until the permanent HVAC system is complete and available for use:

- .1 The CM shall make arrangements and pay for installation and maintenance of temporary heating and ventilating systems; and
- .2 The CM shall pay the costs incurred in operating the temporary heating and ventilating systems.

6.15.2.3 When the permanent HVAC system is complete and available for use:

- .1 The CM shall start up and maintain operation of the permanent HVAC system, including filters, and promptly remove temporary heating and ventilating systems.
- .2 If the Project consists entirely of new construction, the CM shall pay the costs of energy consumed in operating the permanent HVAC system until Final Acceptance, or Partial Occupancy if applicable.
- .3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not

allow separate metering of utilities, the Owner shall pay the costs of energy consumed in operating the permanent HVAC system.

6.15.2.4 From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the cost of operating the permanent HVAC system for the occupied portion of the Project.

6.15.2.5 If the permanent HVAC system is used during construction, the CM shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.15.3 Water and Drainage.

6.15.3.1 The CM shall provide water necessary for the Work until the permanent plumbing system is available for use.

6.15.3.2 The CM shall provide temporary drainage and dewatering necessary for the Work and shall employ pumps, trenches, drains, sumps, and other necessary elements required to provide satisfactory working conditions for the protection, execution, and completion of the Project.

6.15.3.3 The CM shall make arrangements and pay for installation and maintenance of temporary plumbing systems until the permanent plumbing system is available for use.

6.15.3.4 When the permanent plumbing system is complete and available for use:

- .1 The CM shall start up and maintain operation of the permanent plumbing systems, and make arrangements and pay for removal of temporary plumbing systems.
- .2 If the Project consists entirely of new construction, the CM shall pay the costs of water consumed and sewerage charges until Final Acceptance, or Partial Occupancy if applicable.
- .3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the costs of water consumed and sewerage charges.

6.15.3.5 From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the costs of water consumed and sewerage charges for the occupied portion of the Project.

6.15.3.6 If the permanent plumbing system is used during construction, the CM shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.15.4 Electric Service.

6.15.4.1 The CM shall provide temporary light and power; pay the charges for temporary electric service installation, and removal if required.

6.15.4.2 If the Project consists entirely of new construction, the CM shall pay the cost of energy consumed until Final Acceptance of the Project, or Partial Occupancy if applicable.

6.15.4.3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the cost of energy consumed.

6.15.4.4 From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the cost of energy consumed for the occupied portions of the Project.

6.15.4.5 If the permanent electrical system is used during construction, the CM shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.15.5 Hoisting Facilities.

6.15.5.1 The CM shall erect and maintain any hoisting equipment required for its Work.

6.15.5.2 If the electric service requirements of hoisting facilities differ from that available at the Site, the CM shall provide and pay for all necessary connections.

6.15.5.3 If a permanent elevator is identified in the Contract Documents to be used for hoisting materials or personnel during construction, the CM shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.16 Progress Cleaning

6.16.1 The CM shall remove all waste materials, rubbish, and mud attributable to the Work to an appropriate disposal location at or near the Site.

6.16.2 The CM shall perform weekly broom cleaning of hard flooring surfaces in the area of the Work.

6.16.3 The CM shall remove, once each working day or as appropriate for the Project, all waste materials, and rubbish from the disposal location at or near the Site.

6.16.4 The CM shall remove, as appropriate for the Project or as the A/E or Owner directs, any waste materials or rubbish from areas adjacent to the Project.

6.16.4.1 The CM shall dispose of waste materials, rubbish, and construction debris and in a lawful manner in approved recycling facilities or landfills.

6.16.5 If the CM fails to clean up during the progress of the Work, the Contracting Authority may clean up on behalf of the CM and at the CM's expense. If the CM fails to maintain the areas adjacent to the Project clean and free of waste materials and rubbish, the Contracting Authority may also direct the local jurisdiction responsible for the area to have the area cleaned to its satisfaction at the CM's expense.

6.16.5.1 The Contracting Authority may deduct the cleaning costs from payments then or thereafter due the CM. If payments then or thereafter due the CM are not sufficient to cover those amounts, the CM shall immediately pay the amount of the insufficiency to the Owner.

6.16.6 The CM shall remove excavated material and spoil to a suitable off-site location approved by the Contracting Authority.

6.16.6.1 If the Owner designates a location on its property for disposal or storage of clean topsoil and/or subsoil in the Contract Documents, the CM shall remove such materials to the designated location.

6.17 Use of Premises

6.17.1 The CM shall use corridors, stairs, and elevators as designated by the Contracting Authority. The CM shall exercise extreme care to not exceed the carrying capacity of elevators or damage the cab interior in any way.

6.17.2 Loitering or wandering through interior of buildings or exterior grounds outside the limits of the Work will not be permitted.

6.17.3 The CM shall confine its apparatus, materials, and the operations of its workers to the limits indicated by law, ordinances, permits, and the directions of the A/E or the Project Manager.

6.17.4 No signs or advertising of any kind will be permitted on or about the Site, except those appearing on trucks and trailers.

6.17.5 Smoking and Tobacco Products.

6.17.5.1 All State buildings are smoke free. Smoking will not be permitted in any indoor area. The ban on tobacco products will be observed in all indoor and outdoor areas and parking areas on all State owned and leased property. The CM shall enforce these restrictions on any individual employed by the CM or a Subcontractor.

6.18 Interruption of Existing Services

6.18.1 Whenever it becomes necessary to interrupt existing services in use by the Owner or its tenants, including but not limited to sewer, water, gas, and steam lines, electric, telephone, and cable service, the CM

shall continue the associated Work on a non-stop 24-hour per day basis until that Work is completed and the service restored, or at an alternate time required by the Contracting Authority.

6.18.2 Before beginning that Work, the CM shall apply in writing to, and receive approval in writing from, the Owner, through the A/E, to establish a time when interruption of the service will cause a minimum of interference with the activities of the Owner and its tenants.

6.19 Explosives and Blasting

6.19.1 The CM shall not conduct blasting on, or bring explosives to, the Site without the prior written approval of the Contracting Authority, the Owner, and other authorities with jurisdiction.

6.19.2 The CM shall perform all blasting, storing, and handling of explosives as required under Applicable Law.

6.19.2.1 The CM shall carry appropriate liability insurance coverage, as required by the Contract Documents, for its blasting and explosives storage and handling operations. Immediately upon request, the CM shall deliver evidence of that insurance to the Contracting Authority.

6.20 Building Commissioning

6.20.1 If the Project scope includes building commissioning, the CM shall participate in the Building Commissioning process, as prescribed in the Contract Documents.

6.20.2 The CM shall permit the A/E, or a third-party Commissioning Agent (“CxA”) if applicable, access to commission performance based equipment, fixtures, and/or systems (e.g., HVAC, fire protection, smoke evacuation, fume hoods, emergency power, etc.), prior to Final Acceptance, or Partial Occupancy if applicable.

6.20.3 The A/E, or the CxA if applicable, shall promptly notify, in writing, the CM of any deficiency identified during the commissioning process.

6.21 Action Submittals

6.21.1 Submittal Description. Shop Drawings, Product Data, Samples, and other submittals for the A/E’s review and action shall be provided by the CM for any item required by the Contract Documents but not fully described in the Contract Documents, unless waived by the A/E, and include, but are not limited to:

6.21.1.1 construction of the various parts, method of joinery, type of materials, grade, quality and thickness of materials, alloy of materials, profiles of all sections, reinforcement, method of hanging doors or installing windows, anchorage, and type and grade of finish;

6.21.1.2 capacities, types of materials and performance charts that are pertinent to the materials, and performance charts that are pertinent to the equipment item; and

6.21.1.3 wiring diagrams, control diagrams, schematic diagrams, working and erection dimensions, arrangement and specifications.

6.21.1.4 To facilitate the Building Commissioning process, the CM shall submit 4 sets of Operation and Maintenance Manuals for dynamic and engineered systems to the A/E, and the CxA if applicable, for approval. This submission shall occur within 30 days following approval of all related CM submittals required by the Contract Documents.

6.21.2 Form of Submittals. The CM shall provide a transmittal letter, review and stamp its approval, and transmit the submittals to the A/E in accordance with a schedule established by the A/E and the CM.

6.21.2.1 The CM shall submit a minimum of 1 reproducible and 3 copies of Shop Drawings, and a minimum of 4 copies of any other submittal.

6.21.2.2 The data shown on the Shop Drawings shall be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to communicate to the A/E the materials and equipment which the CM proposes to provide.

6.21.2.3 Each Sample shall be identified clearly as to materials, supplier, pertinent data such as catalog numbers, the intended use, and other uses as the A/E may require enabling the A/E to review the submittal.

6.21.3 Variation from Contract Documents. If the submittals show variations from the requirements of the Contract Documents, the CM shall specifically and clearly identify the variations in its letter of transmittal.

6.21.3.1 Variations which may affect the construction quality, cost or timeline shall be submitted by the A/E to the Contracting Authority for review, and if approved, shall be incorporated into the Work by Change Order.

6.21.3.2 The CM shall not be relieved of responsibility for deviations from the Contract Documents by the A/E's approval of submittals.

6.21.3.3 Submittals are not Contract Documents. In the event of conflicts between submittals and the Contract Documents, the Contract Documents take precedence and govern the Work.

6.21.4 CM's Submittal Review. The CM shall review and stamp "approved" all submittals before forwarding them to the A/E. If it is apparent to the A/E that the CM has not reviewed the submittals, or has conducted an incomplete review, the A/E may reject the submittals.

6.21.4.1 The CM shall field verify conditions as necessary and make corrections of dimensions, locations of various items, encroachments of work of Separate Contractors, or variations from the requirements of the Contract Documents.

6.21.4.2 If required by the Contract Documents or Applicable Law, the CM shall have Shop Drawings or other submittals prepared by Persons possessing expertise and experience in an appropriate trade or profession or by a registered architect, professional engineer, or other professional.

6.21.4.3 By approving and submitting submittals, the CM represents that the CM has determined and verified materials, field measurements, and field construction criteria related to the associated Work, or shall do so, and has checked and coordinated the information contained within the submittals with the requirements of the Work and of the Contract Documents.

6.21.5 A/E's Submittal Review. The A/E shall review submittals for conformity with design intent within 14 days of receiving them or in accordance with the approved submittal schedule, or other period as mutually agreed by the A/E and the CM. The A/E's review of submittals is to determine if the items covered by the submittals will, after installation and incorporation into the Work, conform to the Contract Documents and be compatible with the design concept of the Project as a functioning whole.

6.21.5.1 The CM shall make corrections required by the A/E and resubmit the required number of corrected copies of submittals until approved, which re-submission shall be acted upon by the A/E within 14 days of receiving them, or other period as is mutually agreed by the A/E and the CM.

6.21.5.2 When resubmitting corrected submittals, the CM shall direct the A/E's attention to revisions made by noting revisions on the resubmittal.

6.21.5.3 The CM shall pay all reasonable costs of the A/E, the Owner, and the Contracting Authority for attendant delay, interference, hindrance or disruption of the Project due to excessive resubmittals without fault of the A/E, the Owner, or the Contracting Authority. Resubmittals in excess of 2 without fault of the A/E, the Owner or the Contracting Authority may be determined excessive by the Contracting Authority.

6.21.5.4 The A/E may hold Samples and other submittals used to coordinate finishes, colors, patterns, textures, or other characteristics until submittals for adjacent materials are available. The A/E shall issue a written notice to the CM stating that the submittal is being held, within 7 days of receiving it.

6.21.5.5 If coordinating submittals are not received within the period required for action on previously received submittals that are held in accordance with Section 6.21.5.4, review of the previously received submittals shall be delayed.

6.21.5.6 The A/E's review shall not extend to means, methods, manners, techniques, sequences, or procedures of construction, or to safety precautions or incident programs.

6.21.5.7 The review and approval of a separate item shall not indicate approval of the assembly in which the item functions.

6.21.6 Risk of Nonpayment. The CM shall not commence any portion of the Work requiring Shop Drawings, Product Data, Samples, or other submittals until the submittal has been approved by the A/E. If the CM starts Work before the A/E's final approval of the submittal, the CM does so at its own risk that payment shall not be approved by the Contracting Authority or made by the Owner for the related Work.

6.21.7 Equipment Statement. Shop Drawings on equipment shall include the following written statement from the manufacturer of the equipment:

6.21.7.1 "This equipment submitted for approval shall perform as specified when installed by the CM in the arrangement shown on this drawing and in the Contract Documents and in conjunction with all other accessories such as flues, breechings, piping, controls, and equipment not furnished by this manufacturer, but required as an accessory or supplement to this equipment, providing that the accessory or supplementary items perform as specified and are installed as shown in the Contract Documents."

6.21.7.2 This equipment statement shall not be required for Samples, Product Data, and other standard submittals that are not created specifically for this Project.

6.22 Warranty

6.22.1 The CM warrants to the Contracting Authority and the Owner that all materials and equipment furnished under the Contract shall be new and of good quality unless otherwise required or permitted by the Contract Documents, that the Work shall be free from defects not inherent in the quality required or permitted, and that the Work shall conform to the requirements of the Contract Documents. Work not conforming to those requirements, including Substitutions not properly approved and authorized, may be considered Defective Work. If required by the A/E, the CM shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

6.22.1.1 If the CM or a Subcontractor recommends a particular product, material, system, or item of equipment for incorporation into the Project and the Owner accepts that recommendation, the above warranty includes a warranty from the CM to the Owner that the recommended product, material, system, or item of equipment is fit and appropriate for the associated purpose.

6.23 Uncovering the Work

6.23.1 If the CM covers Work contrary to the requirements of the Contract Documents or contrary to the written request of the Contracting Authority or the A/E, the CM shall, if the Contracting Authority or the A/E requests in writing, uncover that Work for observation, correct it if not in conformity with the Contract Documents, and recover it at the CM's expense and without adjustment of the Contract Times.

6.23.2 If the CM covers Work in accordance with the Contract Documents and not contrary to a request from the A/E or the Contracting Authority for an opportunity to observe the Work prior to covering, the CM shall, if the A/E requests in writing, uncover that Work.

6.23.2.1 If the uncovered Work is Defective Work, the CM shall pay the costs of uncovering, correcting, and recovering the Work and shall not be entitled to an adjustment of the Contract Times.

6.23.2.2 If the uncovered Work is not Defective Work and the CM believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of the uncovering and recovering

of the Work, the CM may request an adjustment to the Contract by giving written notice under Section 7.3.2.

6.24 Correction of the Work

6.24.1 Before Final Acceptance.

6.24.1.1 If the CM provides Defective Work or fails or neglects to perform the Work in accordance with the Construction Progress Schedule, the Contracting Authority or the A/E may issue a written notice to the CM and the CM's Surety directing the CM to correct the Defective Work or to recover schedule deficiencies. Unless otherwise specified in that written notice, the CM shall begin to correct the Defective Work and recover the schedule deficiencies within no more than three days after receiving the written notice.

6.24.2 After Final Acceptance.

6.24.2.1 In addition to the CM's other obligations under the Contract Documents, if during the Correction Period any of the Work is found to be Defective Work, the CM shall correct it promptly after receipt of written notice from the A/E, the Contracting Authority, or the Owner to do so, unless the Contracting Authority and the Owner have previously acknowledged and accepted the Defective Work in writing. The A/E, the Contracting Authority, or the Owner may send a copy of the written notice to the CM's Surety, but are not obligated to do so.

6.24.2.2 The Correction Period shall not be extended by corrective Work performed by the CM under this Section 6.24.2.

6.24.2.3 The Correction Period:

- .1 relates only to the CM's specific obligation and opportunity to correct the Work during the Correction Period;
- .2 does not establish a period of limitation with respect to any of the CM's other obligations under the Contract Documents;
- .3 has no relationship to the time within which the State or Owner may seek to enforce the Contract; and
- .4 does not establish a period of limitation within respect to the commencement of litigation to establish the CM's liability under the Contract or otherwise.

6.24.3 If the CM fails to promptly commence and diligently pursue correction of Defective Work under Section 6.24.1 or 6.24.2 after receiving notice to do so, the Owner may correct the Defective Work without giving further notice to the CM or the CM's Surety.

6.24.4 Notwithstanding any other provision of the Contract to the contrary, if in the Contracting Authority's or Owner's opinion the Defective Work presents a threat of imminent harm or danger to people, property, or the environment, the Contracting Authority or Owner may order the CM to immediately correct Defective Work or the Owner may correct the Defective Work itself without prior notice to the CM or the CM's Surety.

6.24.5 Responsibility for Costs of Correction.

6.24.5.1 The CM shall pay all of the costs and damages associated with the correction of Defective Work and the recovery of schedule deficiencies. Those costs and damages may include, but are not limited to, the related fees and charges of contractors, engineers, architects, attorneys, and other professionals; the cost of correcting or replacing adjacent work; and any consequential damages. The Contracting Authority may deduct those costs and damages from payments then or thereafter due the CM. If payments then or thereafter due the CM are not sufficient to cover those amounts, the CM shall immediately pay the amount of the insufficiency to the Owner.

6.25 Acceptance of Defective Work

6.25.1 The Owner may accept any Defective Work instead of requiring its removal or correction, in which case the Contract Sum must be equitably reduced as described under **Article 7**.

6.25.1.1 The Owner may only accept Defective Work through a deduct Change Order which makes explicit reference to this **Section 6.25**.

6.25.2 None of the following will constitute (1) acceptance of Defective Work, (2) a release of the CM's obligation to perform the Work in accordance with the Contract, or (3) a waiver of any rights set forth in the Contract or otherwise provided by Applicable Law:

6.25.2.1 observations or inspections by the Owner, the Contracting Authority, or the A/E;

6.25.2.2 the making of any payment;

6.25.2.3 Final Acceptance or the issuance of a Partial or Final Certification of Contract Completion;

6.25.2.4 the Owner's use or occupancy of the Work or any part of it;

6.25.2.5 any review or approval of a submittal;

6.25.2.6 any inspection, test, or approval by other Persons; or

6.25.2.7 any correction of Defective Work by the Owner.

6.26 Final Cleaning

6.26.1 Before requesting the A/E's Punch List review, the CM shall clean the Site, remove waste materials and rubbish attributable to the Project, and restore the property to its original condition so that upon Contract Completion, the premises are ready for occupancy by the Owner.

6.26.2 If the CM performs any Work after final cleaning, the CM shall clean the affected area as provided above so that upon Contract Completion, the premises are ready for occupancy by the Owner.

6.26.3 Final cleaning shall be done to the reasonable satisfaction of the A/E and the Contracting Authority.

6.27 Punch List

6.27.1 CM's Punch List.

6.27.1.1 When the CM considers the Work, or a designated portion thereof, nearly complete the CM shall inspect the Work and prepare a list of Defective, incomplete, or unacceptable Work ("CM's Punch List"). The CM shall list all items of Work not in compliance with the Contract Documents, including items the CM is requesting to be deferred.

- 1 The CM shall proceed to correct all items listed on the CM's Punch List and certify that the incomplete items listed on the CM's Punch List are to its knowledge an accurate and complete list by signing said Punch List.
- 2 The CM's failure to include an item on the CM's Punch List shall not alter the CM's responsibility to complete the Work in accordance with the Contract Documents.
- 3 The CM shall submit the signed CM's Punch List to the A/E, together with a request for the A/E's Review of the Work.

6.27.2 A/E's Review of the Work.

6.27.2.1 Within 3 business days of receipt of the request for the A/E's Review of the Work, the A/E shall notify the CM of acceptance or rejection of the request, stating reasons for any rejection.

- 1 Within 7 days of its acceptance of the CM's request, the A/E shall conduct the A/E's Review to determine whether the Work, or the designated portion, is in conformity with the Contract Documents. The A/E shall notify the CM, the Contracting Authority, and the Owner of the scheduled time of the A/E's Review.

- .2 The A/E shall include comments from the Contracting Authority and the Owner in the A/E's Review.
- .3 Within 3 business days after the A/E's Review, the A/E shall provide to the CM a list of Defective, incomplete, or unacceptable Work ("A/E's Punch List").
- .4 The A/E's failure to include an item on the A/E's Punch List shall not alter the CM's responsibility to complete the Work in accordance with the Contract Documents.
- .5 If the A/E accepts the request and subsequently determines that the Work is not in conformity with the Contract Documents, the A/E may request compensation for expenses related to excessive Punch List activities. The Contracting Authority may deduct that additional compensation to the A/E from payments then or thereafter due the CM. If payments then or thereafter due the CM are not sufficient to cover those amounts, the CM shall immediately pay the amount of the insufficiency to the Owner.

6.27.3 Completion of Punch List Items.

6.27.3.1 Within 30 days after receipt of the notice required by Section 6.27.2.1.3 and before the date of Final Contract Completion, the CM shall complete all items on the A/E's Punch List. After completing all items on the A/E's Punch List, the CM shall provide a written request for Final Inspection of the Work to the A/E.

- .1 If Work on the A/E's Punch List cannot be timely completed, the CM shall justify in writing to the reasonable satisfaction of the A/E the reasons the items cannot be completed, and the CM may propose, for the A/E's approval, a time when the CM shall complete those items.
- .2 Within 3 business days of receipt of the CM's notice that all Punch List items have been completed, the A/E shall complete a Final Inspection of the Work for compliance with the Contract Documents.
- .3 If multiple inspections of items on the A/E's Punch List are required due to the CM's failure to properly and timely complete them, the CM shall pay any additional costs incurred by the A/E, the Owner, and the Contracting Authority resulting from any attendant delay. The Contracting Authority may deduct those additional costs from payments then or thereafter due the CM. If payments then or thereafter due the CM are not sufficient to cover those amounts, the CM shall immediately pay the amount of the insufficiency to the Owner.

6.28 Project Document Maintenance and Submittal

6.28.1 During Construction.

6.28.1.1 The CM shall maintain in good order at a secure location on the Site:

- .1 a complete copy of all Contract Documents; Shop Drawings, Product Data, Samples and similar required submittals; manufacturer operating and maintenance instructions; certificates; warranties; Requests for Interpretation and responses thereto; and other Project-related documents, all marked currently and accurately to record field changes and selections made during construction and to show actual installation where installation varies from Work as originally shown, including the exact location and depth of underground utility lines; and
- .2 a set of Drawings and Specifications, approved by the Ohio Department of Commerce, Division of Industrial Compliance, or its authorized representative, and the records required by Section 6.2.14.

6.28.1.2 Before submitting each CM Payment Request, the CM shall record all changes on the Contract Documents, neatly in a contrasting color, noting new information not shown on the original Contract Documents. Failure to record all changes may cause payment to be withheld or delayed by the Contracting Authority.

6.28.1.3 The CM shall keep a record of changes made to the Specifications, noting particularly any approved variation from manufacturer's installation instructions and recommendations.