



**GRAND VALLEY
STATE UNIVERSITY**

TM

CONTRACT FOR CONSTRUCTION

(CONSTRUCTION MANAGER AS CONSTRUCTOR FORM)

CHAPTER 2

CONSTRUCTION MANAGER'S REQUIRED SERVICES

INSERT PROJECT TITLE |

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**CONTRACT FOR CONSTRUCTION
(Construction Manager as Constructor form)**

**CHAPTER 2
CONSTRUCTION MANAGER'S REQUIRED SERVICES**

**ARTICLE 1
OWNER'S CONSULTANTS, PROFESSIONALS AND
CONSTRUCTION ADMINISTRATION**

- 1.1 **Owner's Designated Professional Representative.** Unless otherwise directed by the Owner, one designated Professional shall act as the Owner's representative from the effective date of this Contract for Construction until one year from the date of achievement of Substantial Completion.
- 1.1.1 The Professional so designated will be the Owner's design representative during performance of the Work and will be the Owner's representative in dealing with the Construction Manager on all design and technical matters.
- 1.1.2 The Owner and the Construction Manager shall communicate with each other in the first instance through the designated Professional.
- 1.1.3 The designated Professional will act as initial interpreter of the requirements of this Contract for Construction and as the Owner's advisor on claims.
- 1.1.4 The Owner's instructions to the Construction Manager will be issued through the designated Professional.
- 1.2 **Professional Site Visits.** The Professional will visit the Site with sufficient frequency for familiarization with the progress and quality of the Work and to inspect the Work to determine compliance of the Work with:
- (i) this Contract for Construction, including approved shop drawings and other submittals;
 - (ii) the Construction Schedule; and
 - (iii) applicable laws, statutes, building codes, rules or regulations of all governmental, public and quasi-public authorities and agencies having or asserting jurisdiction over the Project.
- 1.3 **Professional Rejection of Work.** The Professional may disapprove or reject Work which does not comply with:
- (i) this Contract for Construction including approved shop drawings and other submittals; or
 - (ii) applicable laws, statutes, building codes, rules or regulations of any governmental, public and quasi-public authorities and agencies having or asserting jurisdiction over the Project.
- 1.4 **Professional Evaluations.**
- 1.4.1 The Professional will review and evaluate the results of all inspections, tests and written reports required by this Contract for Construction and by any governmental entity having or asserting jurisdiction over the Project. The Professional will take appropriate action on test results, including acceptance, rejection, requiring additional testing or corrective work, or such other action deemed appropriate by the Professional. The Professional will promptly reject Work which does not conform to and comply with testing requirements.
- 1.4.2 The Professional may require inspection or testing of any Work in addition to that required by this Contract for Construction or governmental entities having or asserting jurisdiction over the Project when such additional inspections and testing is necessary or advisable, whether or not such Work is then fabricated, installed or completed. The Professional will take appropriate action on all such special testing and inspection reports, including acceptance, rejection, requiring additional testing or corrective work, or such other action deemed appropriate by the Professional.
- 1.5 **Professional Submittal Activities.** The Professional will review and approve, reject or take other appropriate action on submittals such as shop drawings, product data, samples and proposed equal materials or equipment and requested substitutions within not more than fourteen calendar days, and will not approve any submittals unless such submittals conform with:
- (i) the Project design concept;
 - (ii) this Contract for Construction;
 - (iii) the Owner's budgeted total Project Construction Cost; and,
 - (iv) the Owner's Planning and Design Standards.
- The Professional's review of submittals shall not constitute final acceptance of materials or equipment furnished or installed if such materials or equipment should be defective or not as represented by approved submittals or as otherwise required by the Construction Documents. The Construction Manager remains responsible for details and accuracy, for confirming and correlating all quantities and dimensions, for selecting fabrication processes, for techniques of assembly, and for supervision of performance of the Work.
- 1.6 **Professional interpretations.** The Professional will, when requested to do so in writing by the Construction Manager, promptly and so as to cause no unnecessary delay, render written or graphic interpretations and decisions necessary for the proper execution of the Work. The Professional's interpretations and decisions relating to artistic effect shall be final if not inconsistent with this Contract for Construction.
- 1.7 **Professional Change order Activities.** The Professional will consult with and advise the Owner concerning, and will administer and manage, all change order requests and change orders on behalf of the Owner.
- 1.8 **Professional Pay Application Activities.** The Professional will review applications for payment, including such accompanying data, information and schedules as the Professional requires, to determine the amounts due to the Construction Manager and shall authorize payment by the Owner to the Construction Manager in writing. After the Work is determined to be finally complete and the Professional

determines that the Work has been completed, the Professional will determine whether the Construction Manager is entitled to final payment, and if so will so certify to the Owner in writing.

- 1.9 **Professional Relationship to Construction Manager.** The duties, obligations and responsibilities of the Construction Manager under this Contract for Construction shall not be changed, abridged, altered, discharged, released, or satisfied by any duty, obligation or responsibility of any Professional. The Construction Manager shall not be a third-party beneficiary of any agreement by and between the Owner and any Professional. The duties of the Construction Manager to the Owner shall be independent of, and shall not be diminished by, any duties or obligations of any Professional to the Owner.

ARTICLE 2 GENERAL PROJECT SERVICES

- 2.1 **Essential Services.** The Construction Manager agrees to provide all services required for professional completion of the Work in an expeditious and economical manner consistent with this Contract for Construction and the best interests of the Owner.
- 2.2 **Compliance with Contractual Requirements.** At all times the Construction Manager is performing services, it shall comply with the requirements set forth in Chapter 1, Chapter 2 and Chapter 3 of this Contract for Construction.
- 2.3 **Cooperative Effort.** The Construction Manager shall, in consultation with the Owner, Professional, and the subcontractors, endeavor to develop, implement and maintain a spirit of cooperation, collegiality, and open communication among the parties so that the goals and objectives of each are clearly understood, potential problems are resolved promptly, and, upon completion, the Project is deemed a success by all parties.
- 2.4 **Additional or Modified Required Services.** Additional or modified required services, if any, included in General Project Services are listed in Appendix 1 and incorporated herein by reference.

ARTICLE 3 PRE-CONSTRUCTION SERVICES

- 3.1 **Preliminary Design Review**
- 3.1.1 The Construction Manager shall actively and jointly participate with the Owner and the Professional in formation of the final Project design.
- 3.1.2 The Professional is required, in accordance with schedule requirement, to provide preliminary design drawings. The Construction Manager shall promptly and in accordance with schedule requirements:
- (i) familiarize itself with the preliminary design drawings;
 - (ii) analyze and evaluate the constructability of the preliminary design drawings; and,
 - (iii) analyze and evaluate the preliminary design drawings in regard to conflicts or overlaps in the divisions of the Work, design details affecting construction, value engineering, identification of long-lead materials affecting the Construction Schedule, availability of labor and other factors affecting construction.
- 3.1.3 The Construction Manager and the Professional(s) shall jointly schedule and attend regular meetings with the Owner to review and evaluate the preliminary design drawings.
- 3.1.4 The Construction Manager shall, in accordance with schedule requirements, assist the Professional with resolution, of all problems, conflicts, defects or deficiencies identified during the review and evaluation of the preliminary design drawings.
- 3.1.5 Upon completion of the preliminary design drawings, the Construction Manager shall, in accordance with schedule requirements, prepare and submit to the Owner a preliminary estimate of total Project Construction Cost broken down by line item into major construction disciplines and systems.
- 3.2 **Construction Documents Review**
- 3.2.1 The Professional is required, in accordance with schedule requirements, to provide Review Construction Documents and other information.
- 3.2.2 The Construction Manager shall, in accordance with schedule requirements, review applicable Construction Schedule(s), the cost of local utilities, fees for permits and licenses, any modifications necessitated by local conditions, other information necessary for a full understanding of the Project, and the review Construction Documents. The Construction Manager shall:
- (i) examine the review Construction Documents for clarity, adequacy of detail, consistency, accuracy and completeness;
 - (ii) identify conflicts, omissions or overlaps in the proposed divisions of the Work, evaluate the completeness and correctness of intended bid categories and divisions;
 - (iii) identify unusual design details affecting construction cost and schedules and apply established value engineering principles and practices to reduce the cost of the Project;
 - (iv) identify factors with the potential to impact the Construction Schedule such as materials with long lead time, the unavailability of required labor, and other factors and make recommendations for acceptable resolutions to keep the project on schedule;
 - (v) evaluate and make suggestions to optimize Site utilization;
 - (vi) recommend proposed modifications or alternatives to the review Construction Documents based on its evaluation and review;
 - (vii) notify the Owner and the Professional in writing of any variances between the Construction Documents and applicable laws, statutes, building codes, rules and regulations of which it is aware; and,
 - (viii) notify the Owner and the Professional in writing of all problems, conflicts, defects or deficiencies in the review Construction Documents of which it is aware or should be aware.
- 3.2.3 The Construction Manager shall, in accordance with schedule requirements, assist the Professional with the resolution of all problems, conflicts, defects or deficiencies identified during the review and evaluation of the review Construction Documents.
- 3.3 **Preliminary Estimate of total Project Construction Cost**
- 3.3.1 Upon completion of the examination of the review Construction Documents, the Construction Manager shall, in accordance with schedule requirements, prepare and submit to the Owner a preliminary estimate of total Project Construction Cost, including a

preliminary estimate of the Construction Price, with appropriate bid categories and divisions. The estimated Construction Price shall include, but shall not be limited to, estimates of the following three elements:

- (i) General Conditions Guaranteed Maximum Cost, including line item detail of the component parts as defined in Chapter 1, Paragraph 4.3.1(i) and Chapter 2, Paragraph 3.3.2;
- (ii) Subcontracts Cost, as defined in Chapter 1, Paragraph 4.3.1 (ii), detailed by each subcontract, trade or bid division, including a reasonable and appropriate aggregate contingency amount for unforeseen increases in the price of services, goods or materials; and,
- (iii) Management Fee, as defined in Chapter 1, Paragraph 4.3.1 (iii) and Chapter 2, Paragraph 3.3.3.

3.3.2 Items within the General Conditions Cost for which the Construction Manager is entitled to no additional compensation include, without limitation:

- (i) costs incurred to provide site safety;
- (ii) costs of removal of debris from the site;
- (iii) costs, including transportation and storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers, that are provided by the Construction Manager at the site and fully consumed in the performance of the Work; and cost (less salvage value) of such items if not fully consumed, whether sold to others or retained by the Construction Manager. Cost for items previously used by the Construction Manager shall mean fair market value;
- (iv) costs of document reproduction including bid sets, facsimile transmissions and long-distance telephone calls, postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office;
- (v) that portion of the reasonable expenses of the Construction Manager's personnel incurred while traveling in discharge of duties directly connected with the Work;
- (vi) that portion of insurance and bond premiums that can be directly attributed to this Contract for Construction. Premiums shall be net of trade discounts, volume discounts, dividends and other adjustments;
- (vii) sales, use or similar taxes imposed by a governmental authority and paid by the Construction Manager, and directly related to the Work;
- (viii) fees and assessments for the building permit and for other permits, licenses and inspections for which the Construction Manager is required by the Contract for Construction to pay;
- (ix) data processing costs directly related to the Work; however, these costs shall not include any hardware, software, or CADD costs unless approved by the Owner in writing;
- (x) expenses incurred in accordance with the Construction Manager's standard personnel policy for relocation and temporary living allowances of personnel required for the Work, if approved by the Owner;
- (x) the cost of obtaining and using all utility services required for the Work, including temporary meters if required;
- (xii) the cost of crossing or protecting any public utility, if required, and as directed by the Owner;
- (xiii) all reasonable costs and expenditures necessary for the operation of the site office, such as stationary, supplies, blueprinting, furniture, fixtures, office equipment and field computer services, provided that quantity and rates are subject to Owner's prior written approval;
- (xiv) the cost of secure off-site storage space or facilities approved in advance by Owner;
- (xv) printing and reproduction of the Construction Documents;
- (xvi) rental charges for temporary facilities, and for machinery, equipment, and tools not customarily owned by construction workers; however any rental charge shall not exceed the purchase price of such facilities, machinery, equipment or tools; and
- (xvii) other expenses or charges properly incurred and paid in the prosecution of the Work, with the prior written approval of the Owner.

3.3.3 Items within the Management Fee for which the Construction Manager is entitled to no additional compensation include, without limitation:

- (i) direct costs incurred with the exception of those specifically enumerated compensable as a General Conditions Cost or a Subcontracts Cost;
- (ii) wages, salaries, bonuses and incentive compensation, of the Construction Manager's supervisory, technical, administrative and clerical personnel engaged in supervision and management of the Work on or off the Project Site, including all company overhead and expenses
- (iii) the cost of Construction Manager's home or branch office employees or consultants not at the Project Site;
- (iv) cost of fringe benefits, contributions, assessments and taxes, including for example such items as Unemployment Compensation and Social Security, to the extent that such cost is required by law and is based on the compensation paid to the Construction Manager's employees referred to in subparagraphs (ii) and (iii) above;
- (v) non-field office (home and branch office) operational expenses such as telegrams, telephone service and long-distance and zone telephone charges, postage, office supplies, expressage, and other similar expenses;
- (vi) data-processing costs indirectly related to the Work; including hardware, software, and CAD costs;
- (vii) personnel expenses and temporary living allowances incurred due to relocation of personnel required for the Work;
- (viii) cost of all non-project specific insurance;
- (ix) all general operating expenses;
- (x) all capital expenses, including any interest;
- (xi) all sales, use or similar taxes related to the Project imposed by any governmental authority on the Construction Manager's services and non-reimbursable costs;
- (xii) any costs or expenses incurred by the Construction Manager, not included in the General Conditions Cost, for provision of management services necessary to complete the Project in an expeditious and economical manner consistent with this Contract for Construction and the best interests of the Owner.

3.4 Final Estimate of total Project Construction Cost

3.4.1 Upon completion of the examination of the final Construction Documents, the Construction Manager shall, in accordance with schedule requirements, prepare and submit to the Owner a final estimate of total Project Construction Cost, including a final estimate of the Construction Price, with appropriate bid categories and divisions. The final estimated Construction Price shall include all of the elements of, and otherwise comply with the requirements of, Paragraph 3.3 of Chapter 2.

3.4.2 If the Construction Manager's final estimate of total Project Construction Cost differs materially from the Owner's budgeted total Project Construction Cost, the Owner, the Construction Manager and the Professional shall meet promptly to reconcile discrepancies between the estimated amount and the budgeted amount.

3.5 Bidding and Negotiation

3.5.1 Upon the Owner's approval of the Construction Manager's final estimate of the total Project Construction Cost, the Construction Manager shall immediately proceed to obtain bids for the Subcontract Costs in accordance with this paragraph.

3.5.2 The Construction Manager shall prepare and assemble document packets for use in bidding or negotiating the Subcontracts Cost.

3.5.3 The Construction Manager shall develop subcontractor and supplier interest for each division of the Work and shall pre-qualify proposed subcontractors using a pre-qualification form approved by the Owner and Professional.

3.5.4 The Construction Manager shall:

- (i) submit to the Professional the proposed list of subcontractors and review and evaluate information received from the Professional regarding proposed subcontractors; and
- (ii) evaluate the technical competence of all pre-qualified subcontractors.

3.5.5 The Construction Manager shall negotiate or competitively bid each trade category only by invitation to pre-qualified subcontractors. In the event a subcontractor does not meet a pre-qualification requirement, the Construction Manager in its best judgment may, with the Owner's prior approval, still allow the subcontractor to bid.

3.5.6 The Construction Manager shall review the subcontract breakdowns utilized in its estimated Construction Price and use its best efforts to obtain bids which are less than the Construction Price estimates.

3.5.6 The Construction Manager shall conduct public bid openings in the presence of the Owner's Representative. The Construction Manager shall communicate bid results to the Owner and Professional, and to no other persons or entities.

3.5.7 The Construction Manager shall, for each subcontract, trade or bid division:

- (i) determine the final bid amounts,
- (ii) prepare and furnish to the Owner a bid tabulation which includes by subcontract, trade and/or bid division, the applicable Construction Price estimate and the related final bid amount;
- (iii) conduct post-bid interviews with lowest responsive responsible bidder in each subcontract, trade and/or bid division to confirm that the bid is complete and correct; and,
- (iv) identify to the Owner in writing the subcontractors to which the Construction Manager recommends award of subcontracts.

3.6 Proposal for Construction Services

3.6.1 Within the time period required by Paragraph 4.2 of Chapter 1, the Construction Manager shall prepare and deliver to the Owner, with copies to the Professional, its proposal for Construction Services, including in its submission:

- (i) the proposed Construction Price, including:
 - (a) General Conditions Guaranteed Maximum Cost, including line item detail of the component parts as defined in Paragraph 4.3.1(i) of Chapter 1 and Paragraph 3.3.2 of Chapter 2;
 - (b) Subcontracts Cost, as defined in Paragraph 4.3.1 (ii) of Chapter 1, detailed by each subcontract, trade or bid division, utilizing the bidders and bids obtained pursuant to Paragraph 3.4 of Chapter 2, plus as a separate line item a contingency amount in that percentage of the aggregate total Subcontracts Cost set forth in Paragraph 4.2 of Chapter 1;
 - (c) Management Fee, as defined in Paragraph 4.3.1 (iii) of Chapter 1 and Paragraph 3.3.3 of Chapter 2.
- (ii) a description of all inclusions to or exclusions from the proposed Construction Price;
- (iii) all assumptions and clarifications;
- (iv) the proposed Dates of Substantial Completion and Final Completion upon which the proposed Construction Price is based;
- (v) an outline of a preliminary Construction Schedule showing proposed start and finish dates of major components of construction; and
- (vi) the date, not less than five business days from the date of delivery, by which the Construction Manager's proposed Construction Price, must be accepted or rejected by the Owner.

3.6.2 RESERVED

3.6.3 If the proposed Construction Price is unacceptable to the Owner, the Owner shall promptly so notify the Construction Manager in writing. Within fourteen calendar days of such notification, the Owner, Professional(s) and Construction Manager shall meet to discuss and resolve any differences, inconsistencies, or misunderstandings and to negotiate recommended adjustments to the Work and/or to the proposed Construction Price.

3.6.4 The Owner may, at its sole discretion and based upon its sole judgment, (i) indicate its acceptance of the proposed Construction Price; (ii) reject the proposed Construction Price; (iii) terminate the Project; or (iv) proceed to construct the Project using an entity other than the Construction Manager.

3.6.5 If the Owner rejects the proposed Construction Price, neither party shall have any further obligation pursuant to the Contract for Construction.

3.6.6 If the Owner accepts the proposed Construction Price, the parties shall complete and execute Appendix E attached to Chapter 1, and the Owner shall issue the Notice to Proceed to the Construction Manager establishing the date construction is to commence (the "Commencement Date"). The Construction Manager shall not expend any monies for construction prior to receipt of such Notice to Proceed without the written approval of the Owner.

3.6.7 Upon execution of Appendix E, the Construction Manager guarantees that the General Conditions Cost shall not exceed the General Conditions Guaranteed-Maximum Cost and that all costs or expenses that would cause the General Conditions Cost to exceed the General Conditions Guaranteed-Maximum Cost shall be borne by the Construction Manager unless adjusted by change order.

3.6.8. Upon execution of Appendix E, the Construction Manager guarantees that all subcontracted Work shall be performed for the aggregate amount of the Subcontracts Cost, including any contingency, that any unused contingency amount shall inure to the Owner's benefit, and that all costs or expenses that would cause the cost of subcontracted Work to exceed the Subcontracts Cost, including any contingency, shall be borne by the Construction Manager unless adjusted by change order.

3.6.8 Upon execution of Appendix E, the Construction Manager guarantees that the Management Fee shall not exceed the amount

set forth in the accepted Construction Price unless adjusted by change order.

- 3.7 **Additional or Modified Required Services.** Additional or modified required services, if any, included in Pre-Construction Services are listed in Appendix 1 and incorporated herein by reference.

ARTICLE 4 CONSTRUCTION SERVICES

4.1 Planning and Scheduling

4.1.1 **Construction Schedule:** The Construction Manager understands and acknowledges the Owner's intent that the Project will be complete by the Date of Substantial Completion. The Construction Manager shall timely prepare and submit the Construction Schedule for the Owner's review and approval.

- .1 Unless otherwise directed and approved by the Owner, the Construction Manager shall prepare the Construction Schedule as a critical path schedule with separate divisions for each major portion of the Work or operations. The Construction Schedule shall include and properly coordinate dates for performance of all divisions of the Work, including completion of off-Site requirements and tasks, so that the Work can be completed in a timely and orderly fashion consistent with the required dates of Substantial Completion and Final Completion.
- .2 The Construction Manager shall review, on a weekly basis, the actual status of the Work against the Construction Schedule. The Construction Manager shall discuss the status of the Work weekly with the Professional, if any, so that proper overall management may be provided.
- .3 The Construction Manager shall periodically and in all instances when the Construction Manager anticipates that performance of the Work will be delayed or in fact has been delayed, but not less frequently than monthly, prepare a revised Construction Schedule and show actual progress of the Work through the revision date, projected completion of each remaining activity, activities modified since previous submittal, major changes in scope, and other identifiable changes. The updated Construction Schedule shall be accompanied by a narrative report which:
 - (i) states and explains any modifications of the critical path schedule, including any changes in logic;
 - (ii) defines problem areas and lists areas of anticipated delays;
 - (iii) explains the anticipated impact the problems and delays will have on the schedule and scheduled activities;
 - (iv) reports corrective action taken or proposed; and
 - (v) states how problems anticipated by projections shown on the schedule will be resolved to eliminate delay in delivering the Work by the required dates of Substantial Completion and Final Completion, and other milestone dates required by the Owner, if any.

4.1.2 **Schedule of Values:** The Construction Manager shall prepare and present to the Owner and the Professional, the Construction Manager's schedule of values, apportioning the different elements of the Work for purposes of periodic and final payment. The Construction Manager's schedule of values shall be presented in the format, and with such detail and supporting information, requested by the Professional or Owner. The Construction Manager shall not imbalance or artificially inflate any element of its schedule of values. Upon the Professional and Owner's acceptance, the schedule of values shall be used to process and pay the Construction Manager's payment requests. The schedule of values shall not be changed without written change order authorized by the Owner.

4.1.3 The Construction Manager shall establish and timely submit for Owner review:

- (i) Project cost control procedures;
- (ii) Project reporting procedures;
- (iii) Project Manual;
- (iv) Quality Management Program;
- (v) MBE/WBE participation plan; and
- (vi) Staffing Plan for the Construction period.

4.2 RESERVED.

4.3 Construction Supervision

4.3.1 Commencing with the award of the first subcontract and terminating on the Date of Final Completion, the Construction Manager shall provide the services described in Subparagraphs 4.3.2 through 4.3.7.

4.3.2 The Construction Manager shall, as the Owner's construction representative during construction, advise and consult with the Owner and the Professional, and provide administration of the Construction Documents.

4.3.3 The Construction Manager shall supervise and direct the Work at the Site. The Construction Manager shall, at a minimum, staff the Project Site with personnel who shall:

- (i) supervise and coordinate the Construction Manager's personnel and act as its primary liaison with the Owner and the Owner's Consultant(s);
- (ii) coordinate trade contractors and suppliers, and supervise Site construction management services;
- (iii) be familiar with all trade divisions and trade contractors' scopes of Work, all applicable building codes, the Construction Documents, and this Contract for Construction;
- (iv) check and review shop drawings and materials delivered to the Site, regularly review the Work to determine its compliance with the Construction Documents and this Contract for Construction, periodically confer with the appropriate Owner's consultant(s) to assure acceptable levels of quality; and
- (v) prepare and maintain Project records, process documents, and staff the Site field office.

4.3.4 The Construction Manager shall promptly reject any Work which does not conform to the Construction Documents or which does not comply with any applicable law, statute, building code, rule or regulation of any public authority or agency of which it is aware. The Construction Manager shall immediately notify the Professional and the Owner in writing when it has rejected any Work.

- 4.3.5 The Construction Manager shall comply with and cause its subcontractors and suppliers to comply with the Project Construction Schedule and applicable sub-schedules. The Construction Manager shall obtain and review schedules from subcontractors and suppliers, coordinate sub-schedules with the Construction Schedule, and enforce compliance with the all applicable schedules to insure timely completion of the Work. If at any time a Project is delayed, the Construction Manager shall immediately notify the Owner of the probable cause(s) and possible alternatives, and make recommendations to minimize expense to the Owner.
- 4.3.6 The Professional will visit the Project Site at intervals appropriate to the stage of construction and with sufficient frequency to familiarize itself with the progress and quality of the Work and to inspect the Work. The Construction Manager shall request that the Professional visit the Site at additional times as the Construction Manager deems necessary to attend meetings, inspect the Work, and render interpretations regarding the Work necessary for the proper execution of the Work. The Professional's interpretations and decisions shall be final regarding the Construction Documents and the Work.

4.4 Construction Manager's On-Site Facilities

- 4.4.1 Commencing at the Date of Commencement and terminating on the Date of Final Completion, the Construction Manager shall provide a Site field office and toilet facilities at the Project Site.
- .1 The field office facilities shall be large enough to accommodate required meetings and shall include office furnishings and equipment such as desks, telephones, computers, facsimile machines, copiers and other similar office equipment.
 - .2 The Construction Manager shall maintain in the Site field office, on a current basis, all necessary Construction Documents, schedules, shop drawings, product data, samples, purchase orders, maintenance manuals and instructions, daily logs, correspondence, memoranda, and all other Project related documents.
 - .3 The Construction Manager shall provide temporary toilets at the Site for all workers for the complete duration of the construction period. The Construction Manager shall not permit its agents, employees, consultants, subcontractors or suppliers, or their agents and employees, to use toilet facilities which are part of the Work, or any other Owner facilities on Site, unless previously authorized by Professional and the Owner.
- 4.4.2 The Construction Manager shall provide and maintain suitable painted sheds or trailers, in a location designated by the Professional or by the Owner, for storage of tools, equipment, devices and materials required or otherwise used for the Work. The Construction Manager shall permit its subcontractors and suppliers to bring and store on the Site only those items to be used directly for the Work, and shall require that they be promptly remove when no longer required.
- 4.4.5 Upon approval from the Professional and the Owner, the Construction Manager may at its own risk allow its subcontractors and suppliers to use designated vacant property as a lay down and/or storage area. The Owner and the Professional shall have no liability resulting from or occasioned by such use of the Site by the Construction Manager.

4.5 Meetings: The Construction Manager shall attend those meetings mandated by the Owner or Professional.

- 4.5.1 **Pre-Construction Meeting:** Prior to the beginning of any Work, a pre-construction meeting will be held for the purpose of planning and scheduling the overall Project. This meeting will be called and run by the Professional, and must be attended by the Construction Manager and such subcontractors or other parties as the Professional may direct.
- 4.5.2 **Prestart Meeting:** Prior to the beginning of any Work or phase Work, the Professional will meet with the Construction Manager's Representative, representatives of subcontractors, and others actually involved in the Work to discuss specifications, standards, areas of concern and quality assurance.
- 4.5.3 **Weekly Progress Meeting:** Unless otherwise directed by the Owner, during any Work weekly meetings will be held for purposes of coordination and furthering progress of the Work. These meetings shall be attended by the Construction Manager's Representative and such subcontractor(s) representatives as the Professional may direct.

4.6 Commissioning: The Construction Manager shall, through the Owner's Representative, schedule and coordinate all equipment and systems start-ups and Project commissioning within its scope of the Work.

- 4.6.1 Not less than twenty-eight calendar days prior to the anticipated date of Substantial Completion, the Construction Manager shall provide to the Professional all equipment operating and maintenance instructions and manuals, parts lists, guaranties and warranties, so as to allow adequate time for training prior to commissioning and the Owner's occupancy of the Project.
- 4.6.2 The Construction Manager's representative shall meet with the Owner's personnel not less than twenty-eight (28) calendar days prior to the required date of Substantial Completion to familiarize and train them with respect to maintenance and use of the Project. The appropriate Professional(s) will attend and assist with such familiarization and training.

4.7 Additional or Modified Required Services: Additional or modified required services, if any, included in Construction Services are listed in Appendix 1 and incorporated herein by reference.

ARTICLE 5 EXTRA SERVICES

- 5.1 **Definition of Extra Services:** Extra services include, but are not limited to:
- (i) services performed after the Date of Final Completion, except when required as Basic Services.
 - (ii) services for preparation for and attendance at deposition, discovery or court or other dispute resolution proceedings on behalf of the Owner, except when such proceedings involve issues of fault, neglect or alleged liability of the Construction Manager, or its agents, employees, or consultants.
 - (iii) other services not included in Required Services mutually agreed to by the Owner and the Construction Manager in writing.
- 5.2 **Initiation of Extra Services:** The Construction Manager shall provide such Extra Services as are initiated and authorized in writing by the Owner prior to performance. The services described in this Article 5 are not included in Required Services unless identified as an "Additional Required Service or Modified Required Service".
- 5.3 **Payment for Extra Services:** Payment of the Construction Manager for Extra Services shall be in accordance with applicable provisions of Chapter 1.
- 5.4 **Additional or Modified Required Services:** Additional or modified required services, if any, included in Extra Services are listed in Appendix 1 and incorporated herein by reference.

**ARTICLE 6
SUPPLEMENTAL PROVISIONS**

- 6.1 **Site Safety Plan:** In addition to compliance with the provisions of Paragraph 3.4 of Chapter 3 of this Contract for Construction, the Construction Manager shall comply with the provisions of this paragraph.
- 6.1.1 The Construction Manager shall develop, maintain and coordinate with its employees and its subcontractors and suppliers a Site-specific safety plan and accident prevention program which shall comply with all MIOSHA, OSHA, state and local construction industry safety and health standards applicable to the Site. The safety plan and accident prevention program shall, at a minimum, provide for all of the following:
- (i) designation of a qualified safety person with responsibility to administer the program;
 - (ii) weekly instruction to each employee regarding safety issues and procedures;
 - (iii) regular inspections of the Site, tools, materials and equipment to insure that unsafe conditions that could create a hazard are eliminated;
 - (iv) instruction to each employee in the recognition and avoidance of hazards, including the use of personal protective equipment as required by federal, state and local standards;
 - (v) instruction to each employee required to handle or use known poisons, toxic materials, caustics or other harmful substances regarding the potential hazards, safe handling, use, personal hygiene, protective measures required and applicable first-aid procedures to be used in the event of injury;
 - (vi) instruction to each employee likely to encounter known harmful plants, reptiles, animals or insects are present regarding the potential hazards, how to avoid injury and applicable first-aid procedures to be used in the event of injury;
 - (vii) instruction to each employee required to enter a confined space regarding the hazards involved, the necessary precautions to be taken, the use of the required personal protective equipment, emergency equipment, and the procedures to be followed if an emergency occurs; and
 - (viii) instruction in the steps or procedures to be followed in case of an injury or accident or other emergency.
- 6.1.2 The Construction Manager shall, prior to commencement of any Site activities, supply to the Owner and the Professional a written description of its Site-specific safety plan and accident prevention program as proof of compliance with the foregoing provisions.
- 6.1.3 The Construction Manager shall, at all times when the Construction Manager has employees, agents, consultants, subcontractors or suppliers on Site, designate an on-Site qualified safety person who shall assume overall responsibility for implementation of and compliance with the Construction Manager's Site-specific safety plan and accident prevention program.
- 6.1.4 The Construction Manager shall provide and maintain temporary first-aid facilities as required by OSHA, MIOSHA and other federal, state and local authorities, laws, ordinances, rules and regulations.
- 6.1.5 The Construction Manager shall regularly inspect the Site, materials and equipment and regularly monitor work practices and procedures to ensure compliance with its safety plan and accident prevention program, and shall take immediate action to correct or eliminate safety hazards to persons and property.
- 6.2 **General Bond Requirements:** If the Construction Manager is required to provide performance and payment bond(s), the penal sum of each bond shall be in an amount not less than the Construction Price, as adjusted by any change order(s), and each bond shall:
- (i) be in a form approved by the Owner;
 - (ii) incorporate by reference the terms of this Contract for Construction;
 - (iii) be executed by a company certified by the Secretary of the United States Department of Treasury pursuant to the Act of July 30, 1947 (61 Stat. 646, as amended; 6 U.S.C. 6-13);
 - (iv) be executed by a company licensed and authorized to do business in the state in which the Project is located; and
 - (v) be accompanied by a power of attorney certifying that the person(s) executing the bond have the authority to do so.
- The Construction Manager shall deliver any required bond(s) and power(s) of attorney to the Owner prior to commencement of the Work.
- 6.3 **Early Completion:** The Construction Manager may attempt to achieve Substantial Completion before the required date of Substantial Completion. However, such planned early completion shall be for the Construction Manager's sole convenience and shall not create any additional Construction Manager rights or Owner obligations under this Contract for Construction, nor shall it change the required dates of Substantial Completion or Final Completion. The Owner shall not pay the Construction Manager any additional compensation for achievement of Substantial Completion or Final Completion prior to the required dates nor will the Owner owe the Construction Manager any compensation should the Owner cause the Construction Manager not to achieve Substantial Completion earlier than the required date of Substantial Completion or Final Completion earlier than the required date of Final Completion.
- 6.4 **Labor Disputes:** Delay caused by labor disputes, picketing, employee boycotts, or the like which directly or indirectly involves employees of the Construction Manager or its subcontractors and suppliers, and which is within the control of the Construction Manager, is not the responsibility of the Owner and shall not result in extension of the dates of Substantial or Final Completion.
- 6.5 **Additional or Modified Supplemental Provisions:** Additional or modified supplemental provisions, if any, are listed in Appendix 1 and incorporated herein by reference.

**ARTICLE 7
REMEDIES FOR DELAY**

- 7.1 **Time of the Essence:** The parties hereto mutually understand and agree that time is of the essence in the performance of this Contract for Construction, that the contract time periods are reasonable for performance of the Work, and that the Owner will incur damages if the Work is not completed on time. The Construction Manager shall at all times carry out its duties and responsibilities as expeditiously as possible and shall begin, perform and complete its services so that:
- (i) the Work progresses in accordance with the Construction Schedule;
 - (ii) the Work is substantially completed by the required date of Substantial Completion; and

(iii) the Work is finally complete by the date of Final Completion.

- 7.2 **Failure to Timely Achieve Completion:** The parties hereto mutually understand and agree that the Owner will sustain substantial monetary and other damages in the event of a failure or delay by the Construction Manager in the completion of the Work. If the Construction Manager inexcusably fails to achieve Substantial Completion by the required date of Substantial Completion as established and previously set forth in this Contract for Construction, the Construction Manager shall pay to the Owner, as liquidated damages for delay and not as a penalty, the daily amount specified in Chapter 1 for each and every day after the required date of Substantial Completion until Substantial Completion. This liquidated damages provision shall apply and remain in full force and effect in the event that the Construction Manager is terminated by Owner for default and shall apply until Substantial Completion has been achieved by any completing Construction Manager. If the Construction Manager fails to achieve Final Completion by the required date of Final Completion as established and previously set forth in this Contract for Construction, the Construction Manager shall pay to the Owner, as liquidated damages for delay and not as a penalty, fifteen (15%) percent of the daily amount stated for failure to timely achieve Substantial Completion, even if not actually imposed, for each calendar day of unexcused delay in achieving Final Completion.
- 7.3 **Compensable Delay:** If the Construction Manager is delayed at any time in the progress or performance of the Work by:
- (i) acts or omissions of the Owner or Professional, if any;
 - (ii) major changes ordered by the Owner in the scope of Work; or
 - (iii) any other cause which the Owner determines may justify the compensation of the Construction Manager for the delay,
- the Construction Manager's compensation shall be equitably adjusted to cover the Construction Manager's actual and direct increased costs attributable to such delay. However, the Construction Manager shall nevertheless ensure that the Work is substantially completed by the required date of Substantial Completion and finally complete by the date of Final Completion.
- 7.4 **Excusable Delay:** If the Construction Manager is delayed at any time in the progress or performance of the Work by fire or a natural disaster which damages or destroys all or a substantial portion of the Work, the Construction Schedule shall be extended for a period equal to the length of such delay, but only if
- (i) such delay is not in any way caused by default or collusion on the part of the Construction Manager or by any cause which the Construction Manager could reasonably control or circumvent;
 - (ii) the Construction Manager would have otherwise been able to timely perform all of its obligations under this Contract for Construction but for such delay; and
 - (iii) immediately but not later than seven calendar days after the beginning of any such delay the Construction Manager gives notice of its delay claim to the Owner.
- 7.5 **Owner's Right to withhold Payment:** When it reasonably believes:
- (i) that Substantial Completion will be inexcusably delayed; or
 - (ii) that the Construction Manager will fail to achieve Final Completion by the date of Final Completion, the Owner shall be entitled, but not required, to withhold from any amounts otherwise due the Construction Manager the daily amount specified for liquidated damages in this Article for each calendar day of the unexcused delay.

If and when the Construction Manager overcomes the delay in timely achieving Substantial Completion or Final Completion, or any part thereof, for which the Owner has withheld payment, the Owner shall promptly release to the Construction Manager those funds withheld, but no longer applicable, as liquidated damages.

- 7.6 **Additional or Modified Supplemental Provisions:** Additional or modified supplemental provisions, if any, are listed in Appendix 1 and incorporated herein by reference.

**APPENDIX 1
ADDITIONAL OR MODIFIED REQUIRED SERVICES**

GENERAL PROJECT SERVICES [¶ 2.4]

[insert and identify with specificity all Additional Required Services, Modified Required Services, or state "None"]

PRE-CONSTRUCTION SERVICES [¶ 3.7]

[insert and identify with specificity all Additional Required Services, Modified Required Services, or state "None"]

CONSTRUCTION SERVICES [¶ 4.7]

[insert and identify with specificity all Additional Required Services, Modified Required Services, or state "None"]

EXTRA SERVICES [¶ 5.4]

[insert and identify with specificity all Additional Required Services, Modified Required Services, or state "None"]

SUPPLEMENTAL PROVISIONS [¶ 6.5]

[insert and identify with specificity all Additional Supplemental Provisions, Modified Supplemental Provisions, or state "None"]

REMEDIES FOR DELAY [¶ 7.6]

[insert and identify with specificity all Additional Supplemental Provisions, Modified Supplemental Provisions, or state "None"]