



## **Request for Proposal (RFP)**

# **DESIGN-BUILD (DB) PARKING GARAGE PHOTOVOLTAIC MICROGRID SYSTEM**

**Columbia Metropolitan Airport  
West Columbia, SC**

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|-------------------------------|--|
| Issued Date:                  | April 14, 2025   |
| Issued By:                    | Richland-Lexington Airport District<br>3250 Airport Boulevard, Suite 10<br>West Columbia, SC 29170   |
| Point of Contact (POC):       | Mr. Dave Carpenter<br>Foth Infrastructure & Environment, LLC<br>Phone: 803.250.4888<br>dave.carpenter@foth.com   |
| Mandatory Pre-Bid Conference: | Wednesday, April 23, 2025; 2:00 pm EST<br>Columbia Metropolitan Airport Terminal Building<br>3250 Airport Boulevard, OPS Training Room<br>West Columbia, SC 29170<br><br>Also available via Teams, phone and video conferencing. |
| Site Visit:                   | Wednesday, April 30, 2025; 2:00 pm EST<br>Columbia Metropolitan Airport Terminal Building<br>3250 Airport Boulevard, Terminal Lobby at Airport Admin Offices<br>West Columbia, SC 29170  |
| Question Deadline:            | Friday, May 9, 2025; no later than 2:00 pm EST<br>Mr. Dave Carpenter<br>Foth Infrastructure & Environment, LLC<br>Phone: 803.250.4888<br>dave.carpenter@foth.com   |
| Proposal Deadline:            | Thursday, May 22, 2025; no later than 4:00 pm EST<br>Richland-Lexington Airport District<br>Attn: Mr. Frank Murray, Vice President of Planning & Engineering<br>3250 Airport Boulevard, Suite 10<br>West Columbia, SC 29170      |



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## I. INTRODUCTION

The Richland-Lexington Airport District (District) is soliciting proposals from qualified firms to design, and construct (Design-Build) a new photovoltaic (PV) energy production system on the existing parking garage at the Columbia Metropolitan Airport (CAE) The project will include the design, permitting, and construction of an estimated 3.25 MW DC PV array with canopy system that will cover approximately 270,000 square feet of deck, interconnection with existing facility and infrastructure, as well as associated lighting, wayfinding, drainage, and fire protection.

### A. Qualifications

The BIDDER must meet the following minimum qualifications:

1. Designed and constructed three (3) or more solar projects.
2. Among the three (3) or more qualifying projects, at least one (1) project must be with a public agency as the property owner.
3. The BIDDER must have current necessary State required contractor licenses.

The BIDDER must clearly demonstrate that it meets the qualifications/certifications as detailed above. BIDDERS that do not meet these qualifications/certifications will not be subject to further evaluation.

### B. Contract Term

The contract term will be two (2) years, starting from execution of contract.

### C. Questions and Notification

BIDDERS are advised to read this RFP in its entirety. Failure to read and/or understand any portion of this RFP will not be cause for waiver of any portion of the RFP or subsequent contracts.

Technical questions are to be directed to the office of the Engineer in writing. Questions and associated answers will be transmitted to all BIDDERS. **The last date for questions will be May 9, 2025.**

Office of the Architect/Engineer: Foth Infrastructure & Environment, LLC  
101 Trade Zone Drive, Ste 16A  
West Columbia, SC 29170 Phone: 803-250-4888  
Attn: Dave Carpenter  
Email: dave.carpenter@foth.com

### D. Addenda

The District will not be responsible for any oral instruction given by any District employee or official regarding RFP instructions, specifications, or documents. Any changes will be made available by the Office of the Architect/Engineer:

Foth Infrastructure & Environment, LLC  
101 Trade Zone Drive, Ste 16A  
West Columbia, SC 29170 Phone: 803-250-4888  
Attn: Dave Carpenter  
Email: dave.carpenter@foth.com



## II. NOTICE TO BIDDERS

The **RICHLAND - LEXINGTON AIRPORT DISTRICT (RLAD)** will receive sealed bids for **Parking Garage Photovoltaic microgrid system** project, at the Columbia Metropolitan Airport Terminal Building, CAE Administrative Office (East Ticketing), 3250 Airport Boulevard, Suite 10, West Columbia, SC, 29170, Attn: Mr. Frank Murray, Vice President of Planning and Engineering until **4 PM EDT, Thursday, May 22, 2025**. Bids received after stated time will not be accepted.

### PREBID CONFERENCE

A **mandatory** Prebid Conference will be conducted via an online meeting utilizing Microsoft Teams and in person at the OPS Training Room in the Columbia Metropolitan Airport Terminal Building, 3250 Airport Boulevard, West Columbia, South Carolina, 29170 at **2:00 PM EDT, Wednesday, April 23, 2025**. Parking is available in the Terminal Parking Garage and validation will be provided. A tour of the project site will be conducted after this Conference. Questions about the meaning or intent of the project should be addressed to the Office of the Engineer and made in writing.

Link for online Prebid Conference:

Microsoft Teams [Need help?](#)

[Join the meeting now](#)

Meeting ID: 236 117 001 909 0

Passcode: mE2JC9dr

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Dial in by phone

+1 920-455-8872, 130076301# United States, Green Bay

[Find a local number](#)

Phone conference ID: 130 076 301#



### III. SUMMARY OF THE OFFERING

#### A. Scope of Work

The Columbia Metropolitan Airport (CAE) Terminal is supplied power by a 2500 kVA transformer to a metered electrical service with emergency power provided to select panels by an 800 kVA Generator. The Terminal average monthly power use is 562,600 kWh with a maximum and minimum of 744,200 kWh and 310,000 kWh respectively and an annual use of 8.37 MWh.

This project consists of new canopy structure(s) to be installed on the existing roof level of the Columbia Metropolitan Airport (CAE) parking garage. The structure(s) will be designed to support both separate under-canopy lighting and a photovoltaic (PV) solar system for energy generation as well as gutters and other utilities.

The existing CAE terminal and associated electrical service provided by Dominion Energy, Inc. is existing and will remain and be modified by this expansion. The main utility transformer for the airport terminal will be modified to support interconnection requirements between the utility and new PV system. The existing parking garage distribution system will be modified to support new under-canopy lighting. A utility corridor will be constructed from the parking garage to the facility main switch board to interconnect with the existing switchgear.

This project will include local, state and federal funding and include the required provisions related to AIP funded projects. These requirements are included in this RFP.

This RFP includes three (3) general options for the development of the Parking Garage PV system. The generation of power between the three (3) options and the interconnection with the existing switchgear are unchanged. The following options correspond to a bid schedule located in the bid form

- **Option 1 (Bid Schedule 1)** – The option includes the installation of equipment and structure necessary to generate the required power and covers only the parking stalls in general. This approach does not include additional canopy construction outside of what is necessary for the installation of solar panels. See narratives and drawings for additional information.
- **Option 2 (Bid Schedule 2)** – The option includes the installation of equipment and structure necessary to generate the required power and covers the entirety of the top floor of the garage and is constructed using a single plain with the low edge on the south side of the garage and the high edge located on the North edge. See narratives and drawings for additional information.
- **Option 3 (Bid Schedule 3)** – The option includes the installation of equipment and structure necessary to generate the required power and covers the entirety of the top floor of the garage and is constructed using a “sawtooth” or stepped construction method with the low edge on the south side and the structure resetting to a similar elevation after each bay of parking. This method should result in a lower overall structure height. See narratives and drawings for additional information.

#### B. Size of Offering

The maximum capacity established by the local utility for the PV Systems are established at approximately 3.25 MW DC PV array with a canopy system that will cover approximately 270,000 square feet of deck.



C. Site Description

The project includes three general areas of construction, work within the existing parking garage, construction of the utility corridor from the Parking Garage to the Existing Switchgear and the Existing Switchgear Room. The parking garage includes three (3) levels of parking with the top deck approximately 270,000 square feet. The utility corridor includes grassed and paved areas and crosses roadways that are unable to be completely closed. The Airport is a 24hr/7 Day a week operation that requires the circulation of the traveling public, Airline/Tenant staff and support vehicles at all times. A portion of the project will be constructed inside of the Airport Operations Area (AOA) and requires the badging of contractor staff to complete construction within the AOA. Additional information for badging is available at [Badging and Training – Columbia Metropolitan Airport](#).

D. Permits

The selected BIDDER will be solely responsible for obtaining any, and all, Federal, State, and local permits, approvals, and licenses required.

E. Project Schedule

The following schedule is planned for the completion of the RFP document and process for the selection of a responsive BIDDER.

|                                    |                |
|------------------------------------|----------------|
| RFP Issued .....                   | April 14, 2025 |
| Mandatory Pre-Bid Conference ..... | April 23, 2025 |
| Site Visit.....                    | April 30, 2025 |
| RFP Questions Due .....            | May 9, 2025    |
| RFP Q&A Posted .....               | May 14, 2025   |
| RFP Proposals Due .....            | May 22, 2025   |
| Final Interviews .....             | June 3-5, 2025 |
| Bid Selection.....                 | June 16, 2025  |
| Contract Execution.....            | TBD            |

F. Statement of Qualifications

A complete Statement of Qualifications must include a table of contents at the front of the response and should be organized as follows:

**Project Approach** – Provide an approach for the proposed project, including but not limited to:

1. Basic project description
2. Major milestones schedule, including provisions for:
  - i. Permitting and licensing, as applicable
  - ii. Engineering, procurement, and construction
  - iii. Testing strategy
3. Proposed strategy for adding additional solar generation and extensibility.



4. List of major equipment supplies proposed to be utilized for project development.
5. Describe your supply chain risk mitigation strategy.

## **Management Approach**

1. Organizational Chart – Clearly identify the lines of leadership, authority, between the proposed primary construction firm and primary design firm(s) for this project.
2. Narrative
  - a. Organizational Structure – Provide a narrative describing the primary construction firm and primary design firm for this contract and the rationale for proposing this arrangement. Clearly state the roles, responsibilities, and contractual relationships between the various firms that will perform under this contract.
  - b. Execution Strategy – Clearly state the strategy for successful execution of this project.
    - i. Managing and coordinating communication with all subcontractors.
    - ii. Managing project schedule and cost.
3. Resumes – Provide biographies and describe the relevant qualifications and experience of the key team members identified on the organizational chart that will be involved with the project.
  - i. Identify the role each team member will be supporting.
  - ii. Indicate license/registration/accreditation.
  - iii. Provide a list and description of relevant projects that each team member has completed.
  - iv. Indicate whether the prime contractor and consultant have previously worked together.

## **Experience**

1. Provide a minimum of three (3) relevant construction projects as the prime contractor that best demonstrates your experience as a prime contractor on relevant projects (similar in size, scope, and complexity to the RFP.)
  - i. Project name, location, size (MW), and type (rooftop, carport, ground mount array) of solar project.
  - ii. Photos, renderings, and site plans of project.
  - iii. Current status of project (design, construction, complete).
  - iv. Project cost.
  - v. Schedule.
  - vi. Reference to include Point of Contact – name, title, address, email, and phone number.



**Technology and Safety** - Describe the proposed equipment and safety systems. Describe the fire safety strategy in detail including the Authority Having Jurisdiction (AHJ) strategy, also include the training that would be provided to local firefighters. The fire safety strategy must prohibit the use of PFAS containing firefighting compounds.

1. Provide DART Rate for the past five (5) years.
2. Provide TCR Rate for the past five (5) years.

**DBE Participation, Small & Local Business Inclusion** – The District strongly encourages minority-owned, women-owned, small and disadvantaged business to participate in all business opportunities made available by the District.

1. Provide an approach for Disadvantaged Business Enterprise (DBE) participation as well as Small and Local Business inclusion.
  - i. Describe efforts completed or planned as Good Faith Outreach.
  - ii. Identify all DBE (SCDOT-UCP certified) sub-consultants or team members and describe their role on the project team.
  - iii. Describe past performance of complying with DBE goals and how they were accomplished.
  - iv. Provide a history of achieving DBE goals on other projects, by identifying the applicable project, client name, dates of service, initial goal, and final DBE utilization percentage.
  - v. Describe approach to increasing DBE, small and local business participation in all phases of work.

It is the policy of the District to ensure that DBE certified companies, as defined in CFR Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is our policy:

- To ensure nondiscrimination in the award and administration of USDOT-assisted contracts.
- To create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts.
- To ensure only firms that fully meet the eligibility standards are set forth in 49 CFR Part 26 are permitted to participate as DBEs.
- To help remove barriers to participation of DBEs in USDOT-assisted contracts.

The District will award contracts without regard to race, color, sex, or national origin. The District will not, nor will it require its contractors to, award contracts or subcontracts to or to make purchases of materials or equipment for Disadvantaged Business Enterprises who are not qualified.

The South Carolina Department of Transportation UCP Disadvantaged Business Enterprise (DBE) directory is provided as a service to those who are in search of Certified DBE contractors. It is to be used as a guide for selecting certified Disadvantaged Business Enterprises to utilize on State and/or Federal Aid Contracts. Information in the directory should be verified with the SCDOT's Office of



Business Development and Special Programs. <https://www.scdot.org/business/bus-development-dbe-sbe-cert.aspx>

**Project Schedule** - We understand that this is an expediated construction timeline.

1. Please note in your response milestones needed on behalf of the Columbia Municipal Airport that would be required to meet the desired COD of two (2) years from contract award.

**Pricing Proposal** - Please provide your pricing proposal utilizing the Bid Form and Attachment.

### **Additional Information**

A successful BIDDER must provide any additional information that it believes the District should take into consideration while evaluating its proposals.

### G. List of Applicable Standards

#### FAA

- AC 150/5370-2G Operational Safety on Airport During Construction

#### Architecture

- South Carolina Building Code, 2021 Edition
- International Existing Building Code, 2021 Edition

#### Plumbing

- International Building Code (IBC), 2021 Edition, with SC Modifications
- International Existing Building Code (IEBC), 2021 Edition, with SC Modifications
- International Fire Code (IFC), 2021 Edition, with SC Modifications
- International Mechanical Code (IMC), 2021 Edition, with SC Modifications
- International Plumbing Code (IPC), 2021 Edition, with SC Modifications
- International Energy Conservation Code (IECC), 2009 Edition or ASHRAE 90.1-2007
- National Fire Alarm and Signaling Code (NFPA 72), 2019 Edition
- National Electrical Code (NFPA 70), 2020 Edition
- National Electrical Safety Code (NESC/ANSI C2), 2020 Edition
- Standard for the Installation of Sprinkler Systems (NFPA 13), 2019 Edition

#### Mechanical

- International Building Code (IBC) 2021 Edition
- International Mechanical Code (IMC) 2021 Edition
- SMACNA
- ASHRAE (ASHRAE 90.1-2007)

#### Fire Protection

- International Building Code (IBC) 2021 Edition
- International Fire Code (IFC) 2021 Edition
- NFPA 13 & 88A
- All federal, state, and local codes and ordinances that apply to this work

#### Structural

- South Carolina Building Code, 2021
- International Building Code, 2021
- ASCE 7-16, Minimum Design Loads for Buildings and Other Structures



- ACI 318-19, Building Code Requirements for Structural Concrete
- AISC 360-16, Specification for Structural Steel Buildings
- AISC 303-16, Code of Standard Practice for Steel Buildings and Bridges
- ANSI/SDI RD-2017, Standard for Steel Roof Deck
- ANSI/AWS D1.1, Structural Welding Code – Steel

#### Electrical

- 2021 International Building Code (IBC) with SC modifications
- 2021 International Existing Building Code (IEBC)
- 2021 International Residential Code (IRC) with SC modifications
- 2021 International Fire Code (IFC) with SC modifications
- 2020 National Electrical Code (NEC) (NFPA 70) with SC modifications
- 2009 International Energy Conservation Code (IECC)
- 2017 ICC/ANSI A117.1, Accessible and Useable Buildings and Facilities
- 2019 National Fire Alarm and Signaling Code (NFPA 72)
- 2017/2023 National Electrical Safety Code (NESC/ANSI C2)
- 2021 Standard for Electrical Safety in the Workplace (NFPA 70E)
- Various ANSI/IES, Illuminating Engineering Society of North America (IESNA)
- Institute of Electrical and Electronics Engineers (IEEE)
- Underwriters Laboratories (UL)



## IV. INSTRUCTION TO BIDDERS

### 1. DEFINED TERMS

- 1.1 Terms used in these INSTRUCTIONS TO BIDDERS are defined in the General Conditions and the Supplementary Provisions of the Contract for Construction and will have the intent and meaning assigned them therein. Terms defined in the General Conditions being redefined by modification in the Supplementary Provisions will have the intent and meaning assigned them in the Supplementary Provisions.
- 1.2 The term “Successful BIDDER” means the qualified, responsible, responsive BIDDER to whom OWNER (on the basis of OWNER’s evaluation as hereinafter provided) makes an award.
- 1.3 The term “Bidding Documents” means the Bidding Requirements, Contract Forms, Bid Forms, Conditions of the Contract, Specifications, Drawings, and Addenda issued by the OWNER for the purpose of obtaining a BID on the Work.

### 2. BIDDING DOCUMENTS

- 2.1 Complete sets of Bidding Documents will be used in preparing BIDS; neither OWNER nor ENGINEER assume any responsibility for errors or misinterpretations resulting from use of incomplete sets of Bidding Documents.
- 2.2 OWNER and ENGINEER, in making copies of the Bidding Documents available on the above terms, do so only for the purpose of obtaining BIDS on the Work and do not confer a license or grant for any other use.

### 3. QUALIFICATIONS OF BIDDERS

- 3.1 To demonstrate qualifications to perform the Work, each BIDDER will submit, as part of his BID on the prescribed form, evidence of, among other things, financial capacity and previous experience. Each BID will contain evidence of the BIDDER’s qualification to do business in the State of South Carolina. Conditional or qualified BIDS will not be accepted.
- 3.2 Each BIDDER will furnish with its BID a list of items that it will perform with his own forces and the estimated total cost of these items.
- 3.3 BIDDERS are required to be properly licensed in the State of South Carolina at the time of submission of the BID. **The BIDDER will supply its South Carolina Contractor’s License Number on the Bid Form and on the outside of the sealed envelope containing the BID.** Additional requirements for BID submission are specified in Paragraph 12 of these Instructions to BIDDERS.

### 4. EXAMINATION OF CONTRACT DOCUMENTS AND SITE

- 4.1 Before submitting a BID, each BIDDER will (a) examine the Bidding Documents thoroughly; (b) visit the site to familiarize himself with local conditions that may in any manner affect cost, progress or performance of the Work; (c) familiarize himself of federal, state and local laws, ordinances, rules and regulations that may in any manner affect cost,



- progress or performance of the Work; (d) study and carefully correlate BIDDER's observations with the Drawings and Specifications; and (e) notify ENGINEER of conflicts, errors, or discrepancies.
- 4.2 Before submitting its BID each BIDDER may, at its own expense and assuming all risks, make additional investigations and tests as the BIDDER may deem necessary to determine its BID for performance of the Work in accordance with the time, price and other terms and conditions of the Contract Documents. On request in advance, OWNER will provide each BIDDER access to the site to conduct such explorations and tests as each BIDDER deems necessary for submission of a BID. BIDDER will fill all holes, cleanup, and restore the site to its former condition upon completion of such explorations.
- 4.3 The lands upon which the Work is to be performed, rights-of-way for access thereto, and other lands designated for use by the BIDDER in performing the Work are identified in the Contract Documents.
- 4.4 The submission of a BID will constitute an incontrovertible representation by the BIDDER that he has complied with every requirement of this Request for Proposal and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

## 5. ADDENDA AND INTERPRETATIONS

- 5.1 Questions about the meaning or intent of the Contract Documents will be submitted to the ENGINEER in writing. Replies, when considered necessary by the ENGINEER, will be issued by Addenda, mailed or delivered to all parties recorded by the ENGINEER as having received the Bidding Documents. Failure of any BIDDER to receive such Addendum or interpretation will not relieve BIDDER from any obligation under this BID as submitted.

BIDDERS will address inquiries to the Airport's Engineer:

Foth Infrastructure & Environment  
101 Trade Zone Drive, Suite 16A West Columbia, SC 29170  
Phone: (803) 250-4888  
Attn: Dave Carpenter  
Email: Dave.Carpenter@foth.com

Include in all correspondence reference to the Project name.

**Questions and substitution requests will be received up until May 9, 2025.** Questions and requests received after this date will not be answered. No Addendum will be issued later than 5 days prior to receipt of BIDS, unless such Addendum includes a postponement of the Bid Date.

- 5.2 Only a written interpretation or correction by Addendum will be binding. No BIDDER may rely upon any interpretation or correction given by any other manner.
- 5.3 BIDDER will ascertain that BIDDER has received all Addenda issued and will acknowledge receipt of all Addenda on the spaces provided in the Bid Form.



## **6. BID SECURITY**

- 6.1 Each BID will be accompanied by Bid Security made payable to OWNER, in an amount of five (5) percent of the BID price, in the form of a Bid Bond prepared on the Form of Bid Bond included in the BID, duly executed by the BIDDER as principal and issued by a surety licensed to operate in the State of South Carolina and meeting the requirements of the General Provisions and the Supplementary Conditions thereto. The Surety will have at a minimum an “A” rating of performance as stated in the most current publication of “Best’s Key Rating Guide, Property Liability”.
- 6.2 Attorneys-in-fact who sign the Bid Bonds or Contract Bonds will file with each bond a certified and effectively dated copy of their power-of-attorney.
- 6.3 The Bid Security of the successful BIDDER will be retained until such BIDDER has executed the Agreement and furnished the required Contract Security and Insurance Certificates, whereupon it will be returned; if the successful BIDDER fails to execute and deliver the Agreement and furnish the required Contract Security and Insurance Certificates within ten (10) days of NOTICE OF AWARD, OWNER may annul the NOTICE OF AWARD and the Bid Security of the BIDDER will be forfeited to OWNER as liquidated damages for such withdrawal, failure, or refusal. The Bid Security of any BIDDER whom the OWNER believes to have a reasonable chance of receiving the award may be retained by OWNER until the earlier of the seventh day after the “effective day of the Agreement” by OWNER to BIDDER and the required Contract Security and Insurance Certificates are furnished, or ninety-one (91) days after the Bid Opening. Bid Security of other BIDDERS may be released within seven (7) days of the Bid Opening.

## **7. CONTRACT DURATION**

- 7.1 The total Contract Duration will be as stated in the Owner BIDDER Agreement and Supplementary Provisions.

## **8. LIQUIDATED DAMAGES**

- 8.1 Provisions for Liquidated Damages are set forth in the Owner BIDDER Agreement and Supplementary Provisions.

## **9. SUBSTITUTE OR “OR EQUAL” MATERIALS AND EQUIPMENT**

- 9.1 The materials, products and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance, and quality to be met by any proposed substitution.

No substitutions will be considered prior to receipt of BIDS unless written request for approval has been received by the ENGINEER to later than the deadline for receipt of questions noted in Paragraph 5. Such requests will include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for an evaluation. A statement setting forth changes in other materials, equipment, or other portions of the Work including changes in the work of other contracts that incorporation of



the proposed substitution would require will be included. The burden of proof of the merit of the proposed substitution is upon the BIDDER. The decision of approval or disapproval of a proposed substitution may be final.

If the ENGINEER approves a proposed substitution, prior to receipt of BIDS, such approval will be set forth in an Addendum. BIDDERS will not rely upon approvals made in any other manner.

No substitution requests will be entertained nor will substitutions be approved after award of the Contract unless specifically provided for in the Contract Documents. All substitution requests will be received by the ENGINEER no later than the deadline noted in Paragraph 5.

## **10. SUBCONTRACTORS, ETC.**

- 10.1 All BIDDERS will submit as part of their BID on the prescribed schedules a list of all subcontractors and other persons and organizations (including those who are to furnish principle items of material and equipment) proposed for those portions of the Work as to which such identification is required. If requested by OWNER, the low BIDDER will submit an experience statement with pertinent information as to similar projects and other evidence of qualification for each subcontractor, other person or organization. If OWNER, after due investigation, has reasonable objection to any proposed subcontractor, other person or organization, the OWNER may before giving the NOTICE OF AWARD require the apparent Successful BIDDER to submit an acceptable substitute without an increase in Bid Price.

If the apparent Successful BIDDER declines to make any such substitution, the Contract will not be awarded to such BIDDER, but its declining to make any such substitution will not constitute grounds for sacrificing its Bid Security. Any subcontractor, other person, or organization so listed and to whom the OWNER does not make written objection prior to giving the NOTICE OF AWARD will be deemed acceptable to OWNER.

- 10.2 No BIDDER will be required to employ any subcontractor, other person, or organization against whom he has reasonable objection.

## **11. BID FORM AND SCHEDULES**

- 11.1 One bound copy of the Bid Form and Schedules is included herein.
- 11.2 Bid Forms and Schedules will be completed. Each BID will be submitted on the prescribed form. All blank spaces and Bid Prices will be filled in. The Bid Price will be stated in words and numerals or as indicated in the Bid Forms. In the event of a discrepancy between amount stated, the amount stated in words will govern.
- 11.3 The firm, corporation, or individual name of the BIDDER will be signed in ink in the space provided for the signatures on the Bid Form. BIDS by corporation will be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal will be affixed and attested by the secretary or assistant secretary of the corporation. The corporate address and state of incorporation will be shown in the space provided.



- 11.4 BIDS by partnerships will be executed in the partnership name and signed by a partner authorized to bind the partnership, whose title will appear under the signature and the official address of the partnership will be shown below the signature.
- 11.5 BIDS by limited partnerships or limited liability companies will be executed in the partnership/company name and signed by the full-time chief manager of the limited partnership or the equivalent officer of the limited liability company.
- 11.6 BIDS by individuals will be signed by the individual owner and the terms “doing business” or “sole owner” will appear under the signature.
- 11.7 The BIDDER will state in its BID the name and address of each person or corporation interested therein.
- 11.8 The numbers of all Addenda and the date each was received will be filled in on the Bid Form.
- 11.9 The address to which communications regarding the BID are to be directed will be shown on the Bid Form.
- 11.10 Affidavits: Each BIDDER is required to duly execute the BIDDER’s and Non-Collusion Affidavits, and the BIDDER Certification Regarding Debarment at the end of the BID.
- 11.11 All names will be typed or printed below the signature.
- 11.12 The only markings by the BIDDER which will be considered by the OWNER in evaluating the BID are those on the Bid Form itself. No markings or notes on the exterior of the envelope or other extraneous marks will be considered as a part of the BID.

## **12. SUBMISSION OF BIDS**

- 12.1 BIDS will be submitted at the time and place indicated in the Notice to BIDDERS. Each BID will be marked and addressed as required in the Notice to BIDDERS and will be accompanied by the Bid Security and other required documents.
- 12.2 Submit the Bid Form in duplicate. Do not submit the Project Manual or Drawings with the BID.
- 12.3 The following original, signed documents will be included within the sealed envelope:
  - The Bid Form (in duplicate)
  - All Bid Form attachments
  - Bid Bond or other Bid Security allowed by these documents.
- 12.4 The BID envelope will contain the following information on the outside of the sealed envelope:

**BID FOR DESIGN BID (DB) PARKING GARAGE PHOTOVOLTAIC  
MICROGRID SYSTEM**

**BIDDER’s Name and Address**

**BIDDER’s Contractor License Number, Expiration Date, and Classification.**



- 12.5 If the BID is sent through the mail the sealed envelope will be enclosed in a separate envelope with the following notation and to this address:

**BID ENCLOSED – PARKING GARAGE PHOTOVOLTAIC MICROGRID SYSTEM**

Columbia Metropolitan Airport  
3250 Airport Boulevard, Suite 10  
West Columbia, SC 29170  
Attn: Mr. Frank Murray  
Vice President of Planning & Facilities, Administration

It is the BIDDERS responsibility to ensure delivery of the BID by the date and time indicated in the Notice to BIDDERS regardless of the method of delivery.

### **13. MODIFICATIONS AND WITHDRAWAL OF BIDS**

- 13.1 BIDS may be modified or withdrawn by an appropriate document duly executed (in the manner that a BID must be executed) and delivered to the place where BIDs are to be submitted at any time prior to the opening of BIDs.
- 13.2 If within twenty-four (24) hours after the time BIDS are opened, any BIDDER files a duly signed written notice with the OWNER and promptly thereafter demonstrates to the reasonable satisfaction of the OWNER that there was a material and substantial mistake in the preparation of its BID, that BIDDER may withdraw its BID and the Bid Security will be returned. Thereafter, that BIDDER will be disqualified from further bidding on the Work.

### **14. REVIEW OF BIDS**

- 14.1 BIDS will be reviewed and evaluated by a panel made up of OWNER and project design team staff. An abstract of the amounts of the Base Bids and any major Alternates, and BIDDER ranking against the evaluation criteria, will be made available after award is made by OWNER.

### **15. BIDS TO REMAIN OPEN SUBJECT TO ACCEPTANCE**

- 15.1 All BIDs will remain open for one hundred twenty (120) days after the day of the opening, but OWNER may, in its sole discretion, release any BID and return the Bid Security prior to that Date.

### **16. AWARD OF CONTRACT**

- 16.1 OWNER reserves the right to reject any and all BIDs, to waive any and all informalities not involving price, time, or changes in the Work, and to negotiate contract terms with the successful BIDDER, and the right to disregard all nonconforming, nonresponsive, unbalanced, or conditional BIDs. Also, OWNER reserves the right to reject the BID of any BIDDER if OWNER believes that it would not be in the best interest of the Project to make an award to that BIDDER, whether because the BID is not responsive or the BIDDER is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the OWNER. Discrepancies between words and figures will be



resolved in favor of words. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

- 16.1.1 The following are examples of factors which, among others, will determine the responsiveness of BIDS:
- a. The completeness and regularity of Bid Form;
  - b. A Bid Form without exclusions or special conditions;
  - c. A Bid Form having no alternative bids for any items unless requested in the Specifications;
  - d. A Bid Form with no obviously unbalanced Unit Prices;
  - e. Submission of a properly executed Bid Bond;
  - f. Submission of complete documentation for compliance with Federal Procurement and Contracting provisions, as described further in this and other Sections.
- 16.2 In evaluation of BIDS, OWNER will consider qualifications of the BIDDERS and whether or not the BIDS comply with the prescribed requirements in the Bid Forms.
- 16.3 If, a BIDDER submits a BID which lists DBE compliance at a percentage lower than the goal stated in the Bid Documents, that BIDDER will within 48 hours of the bid opening submit written evidence to the Owner and Engineer, of BIDDER's good faith efforts to comply with the goal. The burden for coming forward with evidence of good faith efforts will be on the BIDDER, not upon the OWNER or any of its representatives or consultants. Failure to come forward with such evidence will remove the BIDDER's Bid from further consideration.
- 16.4 OWNER may consider the qualifications and experience of subcontractors, other persons or organizations (including those who are to furnish the principal items of materials and equipment) proposed for those portions of the Work as to which the identity of subcontractors and other persons and organizations will be submitted as provided in the General Conditions. OWNER will consider DBE participation and whether or not BIDDER made an effort to meet specified DBE goals.
- 16.5 OWNER may conduct such investigations as he deems necessary to assist in the evaluation of any BID and to establish the responsibility and qualifications of BIDDER and other persons and organizations to do the Work in accordance with the Contract Documents to OWNER's satisfaction within the prescribed time.
- 16.1.2 Responsibility will be based on whether the BIDDER:
- a. Maintains a permanent place of business;
  - b. Has adequate equipment and staff to do the Work properly and within the time limit that is established;
  - c. Has adequate financial status to meet its obligations contingent to doing the Work; and
  - d. Otherwise demonstrates that he is clearly capable, both financially and in terms of past experience, to carry out the Work of the Contract in a competent and timely fashion.



- 16.6 OWNER reserves the right to reject the BID of any BIDDER who does not pass any evaluation to OWNER's satisfaction.
- 16.7 If a Contract is to be awarded, it will be awarded to the responsive and responsible BIDDER whose evaluation by OWNER indicates to OWNER that the award will be in the best interests of the Project. The OWNER has the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the low BIDDER on the basis of the sum of the Base Bid and Alternates accepted.
- Whichever BID scenario the OWNER elects to award, if any at all, will be awarded to the responsive and responsible BIDDER, depending upon the availability of funds as well as BIDDER meeting BIDDER's and contractual requirements, as set forth in these Contract Documents.
- 16.7.1 In the event that the responsive and responsible BID exceeds the OWNER'S budget for construction and the OWNER desires to negotiate a price reduction in the Project, the Contract BIDDER will advise the ENGINEER (in writing) of its primary list of subcontractors and/or materials suppliers as used in its BID and will first confine its negotiations to these included on the list. In case of failure to satisfactorily conclude such negotiations, the Contract BIDDER then will submit to the ENGINEER, for approval, the names of a minimum of two additional BIDDER for each trade with whom he wishes to negotiate.
- 16.8 If a Contract is to be awarded, OWNER will give the successful BIDDER a NOTICE OF AWARD within ninety (90) days after the day of Bid Opening.
- 16.9 After BIDS are opened, all communications between the BIDDER and the OWNER or its representatives upon which the BIDDER intends to rely will be in writing. No oral statements by the OWNER or its representatives will modify or waive any of the requirements of these Instructions or other Contract Documents.

## **17. BONDS, CONTRACT SECURITY, AND INSURANCE**

- 17.1 Supplementary Contract Provisions set forth OWNER's requirements as to Bonds and Insurance. For this Project, Performance and Payment Bonds each in the amount of 100% of the Contract amount will be required. When the successful BIDDER delivers the executed Agreement to OWNER it will be accompanied by the required Contract Security and Insurance Certificates.
- 17.2 All Bonds (Bid, Payment, and Performance) which are signed or countersigned by the Surety Company's proper resident agent, authorized to do business in the State of South Carolina, as attorney-in-fact, will be accompanied by an original sealed, authenticated, and currently dated power of attorney.

## **18. SIGNING OF AGREEMENT**

- 18.1 When OWNER gives a NOTICE OF AWARD to the successful BIDDER, it will be accompanied by required number of unsigned counterparts of the Agreement and all other required Contract Documents. Within fifteen (15) days following the effective date of



“Award” BIDDER will sign and deliver all executed counterparts of the Agreement to the OWNER with all other Contract Documents including Insurance Certificates and executed Bonds attached thereto. ENGINEER will identify those portions of the Contract Documents not fully signed by the OWNER and BIDDER and such identification will be binding on all parties.

## **19. SPECIAL REQUIREMENTS**

- 19.1 Laws and Regulations: The BIDDER’s attention is directed to the fact that applicable state laws, municipal ordinances and the rules and regulations of all authorities having jurisdiction over construction of the Project will apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though therein written out in full.
- 19.2 State Licenses: The successful BIDDER will be required to obtain necessary licenses or permits to conduct the Work within their contract as may be prescribed by the State of South Carolina.
- 19.3 Permits, Fees, and Taxes: Costs of permits and fees for inspections required by all City, County, and/or State Authorities; all Local, State, and Federal taxes; and all other fees and taxes for which the BIDDER is liable due to the work on this Project will be included in the BID.
- 19.4 Estimated Quantities: Where quantities of work are given in the BID these are approximate and are assumed solely for comparison of the BIDS. They are not guaranteed to be accurate statements or estimates of quantities of work that are to be performed under the Contract, it being presumed that the BIDDER has verified the quantities necessary to complete the Work of the Contract as intended, and any departure there from will not be accepted as valid grounds for any claim for damages, for extension of time or for loss of profits; nor will any additional payment, be made regardless of the actual quantities required or ordered to complete the Work.

## **20. PREBID CONFERENCE**

- 21.1 A Mandatory Prebid Conference will be held at the time and date specified in the Notice to BIDDERS. Attendance by General Contractors at the Mandatory Prebid Conference is required to bid on the Project. Representatives of OWNER and ENGINEER will be present to discuss the Project. A tour of the Project site will be conducted after this Conference. The ENGINEER will transmit to all prospective BIDDERS of record any such Addenda as ENGINEER considers necessary in response to questions arising at the Conference.

## **21. TAXES**

- 21.2 All BIDS and Unit Prices will include all applicable taxes and fees.

**22. INFLATION REDUCTION ACT DOCUMENTATION** - This project is eligible to pursue Investment Tax Credits (ITC) as specified in the relevant U.S. code sections and subsequent notices commonly known as the Inflation Reduction Act of 2022 (IRA). The following Investment Tax Credits apply to this project:



- a. Energy Credits (26 U.S. Code 48(a)) related to Energy Property (26 CFR 1.48-9) and specifically Solar Energy Property (1-48-9(d)).
- b. Domestic Content Bonus Credit Amount ((26 U.S. Code 48(a)(9))
- c. Increase in Credit Rate for Energy Communities ((26 U.S. Code 48(a)(11))

22.1 Cost Tracking: All costs will be tracked as follows:

- 22.1.1 BIDDER is responsible for the overall documentation required to be submitted for the Cost Segregation Study.
  - 22.1.2 BIDDER is responsible for tracking costs for all labor, equipment, transportation, excavation, backfill, supplies, material, appurtenances, and services necessary for the satisfactory installation of the complete and operating Systems that are to be included within the Investment Tax Credits.
  - 22.1.3 All manufacturers, suppliers, fabricators, contractors, etc. submitting proposals for any part of the work, services, materials, or equipment to be used on or applied to this project are hereby directed to provide the documentation to track costs for items that qualify for the Investment Tax Credits.
  - 22.1.4 Any materials, labor, equipment, or services not mentioned specifically herein which may be necessary to complete any part of the qualifying Systems in a substantial manner, in compliance with the requirements stated, implied, or intended in the Plans and/or Specifications, costs shall be documented.
- 22.2 Domestic content bonus credit requirements: All equipment that qualifies for ITC credits described above also qualifies for additional ITC credits if the manufactured products are deemed to have been produced in the United States as determined by a percentage of the total cost.
- 22.1.1 A minimum of 45% of manufactured products' materials and equipment cost must be domestically manufactured (26 U.S. Code 48(a)(9)(C)(i)).
  - 22.1.2 Steel and iron must be 100% produced in the United States

The IRS provided a non-exhaustive list of solar PV steel products, manufactured products, and components of manufactured products. These include:

- Steel/Iron products: steel photovoltaic module racking; pile or ground screw; steel or iron rebar in foundation (e.g., concrete pad)
- Manufactured products: PV module; PV tracker; inverter
- Components of a PV module (if applicable): photovoltaic cells, mounting frame or backrail, glass, encapsulant, backsheet, junction box (including pigtails and connectors), edge seals, potting, adhesives, bus ribbons, and bypass diodes.



- 22.3 Prevailing wage requirements: In general, all laborers and mechanics employed by BIDDER or its subcontractor (and for the 5-year period beginning on the date such project is placed in service, the alteration or repair of the project) are paid the prevailing wages, which includes basic hourly rate and any fringe benefits rate, established by the Secretary of Labor (IRS Notice 2022-61).
- 22.4 Apprenticeship requirements: The BIDDER and its subcontractors who employs four or more workers to perform construction, alteration, or repair work on the facility must employ one or more qualified apprentices from a registered apprenticeship program. A minimum percentage of the total labor hours of the construction, alteration, or repair work must be performed by the qualified apprentices. This percentage is 15% for facilities beginning construction in 2024 or after.

BIDDER and its subcontractors must also ensure that any applicable ratios of apprentices to journeyworkers established by the registered apprenticeship program are met. An exception may apply when BIDDER or its subcontractor has requested qualified apprentices from a registered apprenticeship program and no apprentices are available (IRS Notice 2022-61).

BIDDER is to submit weekly wage reports for any laborer or mechanic employed to perform work on the facility that include the following.

- a. The applicable wage determinations
- b. The wages paid (including any correction payments as defined in Internal Revenue Code section 45(b)(7)(B)(i)(I)) and hours worked for each of the laborer or mechanic classifications engaged in the construction of the facility or property.
- c. The number of workers who received correction payments.
- d. The wages paid and hours worked by qualified apprentices for each of the laborer or mechanic classifications engaged in the construction of the facility or property.
- e. The total labor hours for the construction of the facility or property by any laborer or mechanic employed by BIDDER or its subcontractors.

The required weekly payroll information may be submitted in any form desired. Optional [Form WH-347](#) is available for this purpose and shall satisfy the requirement of this provision. BIDDER must submit a certified payroll report to the OWNER within 14 days after the employee has been paid. The employee must be paid unconditionally and not less often than once every 14 days.

## **23. FUNDING**

- 23.1 The OWNER may adjust Project scope to match available Funds. If sufficient Funds are not available OWNER will reject all BIDS and return Bid Security to all BIDDERS as specified in the Instructions to BIDDERS.

## **24. SPECIAL INSTRUCTIONS**

- 24.1 Indemnification: The BIDDER will be solely responsible for all liabilities, suits, actions, and claims of every character whatsoever incurred or brought forth on account of any injuries,



damage, or loss incurred or brought sustained by any person or persons or to any property, real or personal, whether on adjacent to the job site or not, arising out of or in any way connected with the matters and things set forth in these Specifications, other of the Contract Documents, whether due to the negligence of the BIDDER, conditions of the premises, or other causes. The BIDDER covenants agree to indemnify and save harmless the OWNER from all liability's charges, expenses, and cost on account of or by reason of any such injuries, damages, liabilities, claims, suits, or losses, however occurring, including any costs incurred in defending against the same. To further assure, the performance of the covenant, the BIDDER will procure and constantly maintain in force, at its expense, the liability insurance required.

- 24.2 Superintendent: The BIDDER will have a superintendent or representative on site at all times while Work is being performed. He will represent the BIDDER and all communications given to him will be binding as if given to the BIDDER. He will have the authority to make decisions and coordinate and manage activities on behalf of the BIDDER.
- 24.3 Preservation of Property: The BIDDER will carry out its Work with such care and by the proper methods to prevent damage to the property adjacent to the Work or within streets, easement locations to the extent the OWNER may have right herein, or other property of the owners or of others, whether adjacent to the work site or not, the removal, relocation, or destruction of which is not called for by the provisions of the Contract Documents; it being a condition of the execution of the Contract that the Work be performed in such manner that the property of others and other property of the OWNER will not be damaged in any way. The word PROPERTY, as used, is intended to include among other types of property, public street improvements, storm and sanitary sewers, water lines and appurtenances, or other structures. Should any property be damaged or destroyed, the BIDDER at its own expense will promptly, or within reasonable time, repair or make such restoration as is practical and acceptable to the owner of the damaged or destroyed property. In case of failure on the part of the BIDDER to repair or restore such property, or make good such damage or injury, the ENGINEER may within forty-eight (48) hours' notice, proceed to repair, rebuild, or otherwise restore such property as may be necessary, and the cost thereof will be deducted from any monies due or which may become due the BIDDER under this Contract agreement. The BIDDER will, at all times in performance of the Work, employ approved methods and exercise reasonable care and skill so as to avoid delay, damage, injury, or destruction of existing public service installations and structures; and will at all times in the performance of the Work avoid interference with, or interruption of, public utilities services, and will cooperate fully with the owners thereof to the end.

## **25. SPECIAL NOTICE**

- 25.1 The information and requirements included as Instructions to BIDDERS are neither inclusive nor exclusive of the full requirements of the Project and the BIDDER will make no claim for lack of notice because information or requirements are stated elsewhere in the Contract Documents but are not repeated herein.



## V. PROPOSAL EVALUATION

Proposals will be reviewed for documentation of minimum proposals, completeness, and adherence to the RFP requirements. The District reserves the sole right to determine the sufficiency of proposals and experience of all BIDDERS. Submittals not meeting minimum qualifications will be disqualified from further consideration. The District may seek written clarification from any or all developers.

At its discretion, the District may choose to conduct interviews with all or a short list of developers and consider the interviews in making its recommendation to the Richland-Lexington Airport District Commission.

Submitted proposals will be evaluated in accordance with the following criteria:

| Scoring Criteria      | Weight |
|-----------------------|--------|
| Technical Capability  | 45%    |
| Financial Proposal    | 30%    |
| Construction Duration | 15%    |
| Aesthetics            | 10%    |

### Technical Capability

1. Technical Design and Performance – Does the proposed solution meet or exceed the performance requirements?
2. Technical Quality – Materials used, compliance with codes
3. Compatibility/Extensibility – Flexibility of the design to integrate with future microgrid expansion

### Financial Proposal

1. Price
2. Total Cost of Ownership including tax credit capitalization approach, estimated tax credit value, incentives, and Operations and Maintenance
3. Estimated Return on Investment and calculation methodology

### Construction Duration

1. Feasibility of milestone schedule for procurement, construction
2. Estimated construction days

### Aesthetics

1. Both interior and exterior design should be visually appealing



## **VI. GENERAL TERMS AND CONDITIONS**

- A. Other than with written consent from the Point of Contact, all BIDDERS, including any persons affiliated with or in any way related to the BIDDER, are strictly prohibited from contacting any Commissioners or any District personnel on any matter having to do in any aspect with this RFP after April 14, 2025. Any other contact with such persons associated with the District will be made only through and in coordination with the Point of Contact and must be made in writing. Prohibitive or inappropriate contacts made by BIDDER may result in the disqualification of the BIDDER. This requirement will be strictly enforced.
- B. The District strongly encourages minority-owned, woman-owned, small and disadvantaged businesses to participate in all business opportunities made available by the District. In the event a contract is entered into pursuant to this RFP, the BIDDER will not discriminate against any qualified employee or qualified applicant for employment because of race, sex, color, creed, national origin or ancestry. The BIDDER must include in any and all subcontracts a provision similar to the above.
- C. All documentation submitted with the Proposal will become the property of the District.
- D. The opening and reading of a Proposal does not constitute the District's acceptance of the BIDDER as a responsive and responsible BIDDER.
- E. The District reserves the right to cancel any or all solicitations, in whole or in part, as well as reject any or all Proposals, or to accept or reject any Proposal in part, and to waive any minor informality or irregularity in Proposals received if it is determined by the Executive Director or its designee that the best interest of the District will be served by so doing. If the solicitation is cancelled or all Proposals are rejected by the District, a notice will be posted on the District website as identified for the posting of addenda. A Proposal will not be considered from any person, firm or corporation that is in arrears or in default to the District on any contract, debt, or other obligation, or if the BIDDER is debarred by the District from consideration for a contract award.
- F. All costs incurred in the preparation and presentation of the Proposal is the BIDDER's sole responsibility; no costs will be reimbursed to any Developer.
- G. The District reserves the right to request any supplementary information it deems necessary to evaluate the BIDDER's experience, proposals, or to clarify or substantiate any information contained in the BIDDER's submittal.
- H. The BIDDER will not assign any interest in the contract and will not transfer any interest in the same without prior written consent of the District.
- I. More than one Proposal from any individual, firm, partnership, corporation, or association, under the same or different names will not be considered. Reasonable grounds for believing that any BIDDER has a business or financial interest in more than one Proposal will cause rejection of all Proposals in which such BIDDER has such interest. If there is reason to believe that collusion exists among BIDDERS, none of the participants in such collusion will be considered.
- J. The District reserves the right to reject any or all Proposals, or to award the contract to the next most qualified BIDDER if the selected BIDDER does not execute a contract within fourteen (14) days after the award of the Proposal.



- K. If, through any cause, the BIDDER will fail to fulfill in a timely and proper manner the obligations agreed to, the District will have the right to terminate its contract by specifying the date of termination in a written notice to the BIDDER at least thirty (30) days before the termination date.
- L. Proposals are subject to public disclosure after the final ranking in accordance with state law. All information contained in any submitted bid, request for Proposal, or request for proposals document to the District will be available for public review upon Freedom Of Information Act (FOIA) request. All BIDDERS are hereby advised that any information that they may consider to be confidential or proprietary and would give a competitive advantage if disclosed, should be identified, along with a statement as to whether or not a claim of confidential or proprietary privilege is being asserted. If such information is later sought by a FOIA request, the BIDDER will be allowed to justify its claim of privilege and the District will assess the validity of said claim in advance of any release.
- M. Any Proposal submitted will constitute an irrevocable offer, for a period of ninety (90) days and may not be withdrawn.
- N. Any ambiguity in any Proposal as a result of omission, error, lack of clarity or non-clarity by the BIDDER with this RFP, instructions, and all conditions of the submission will be interpreted in the light most favorable to the District.



## VII. BASIS OF DESIGN

### Architectural Narrative

#### Canopy System

Canopy System assembly will comprise of structural roofing decking (G90) with fully adhered PVC roofing membrane with KEE formulation for durability in airport environments, installed on 1/2-inch-thick glass-mat substrate board. PVC membrane will be 60-mil thick in color selected by Architect, complying with ASTM D4435 Type III. Assembly will include necessary flashing and trim, and roofing drainage system comprised of schedule 40 galvanized steel pipe downspouts and seamless aluminum gutters to span length to align with column spacing.

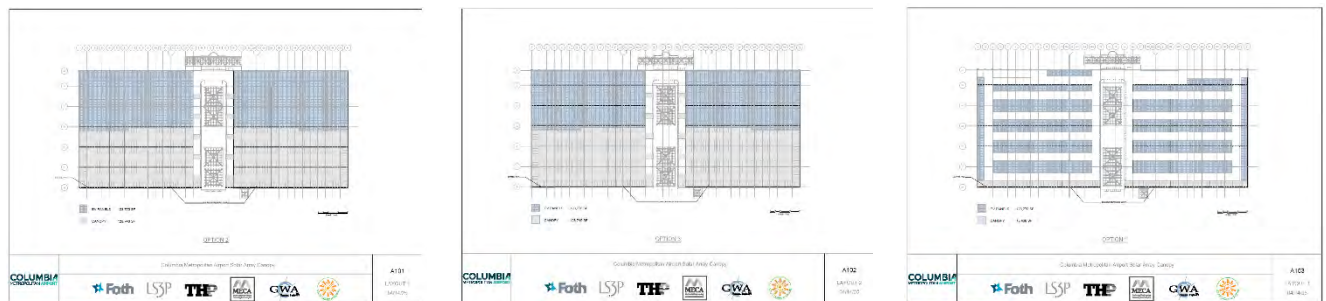
#### Architectural General Requirements

Drainage – all rainwater from canopy and PV panel systems shall be collected and gutter systems this water shall then be piped to tie into existing third level storm drainage system.

Design-Builder should utilize rain skirts, or similar to prevent wind blowing rain from entering the sides of the canopy system along the perimeter.

Penetrations through existing elevated slabs – contractor shall utilize ground, penetrating radar to identify and avoid any PT tendons, steel, reinforcing, or utilities when locating penetrations.

Low point of underside of structure for all options shall be 10'- 0" above finish floor.





## Structural Narrative

### A. General

1. The Design-Build team is responsible for the full design and detailing of the new roof structure including confirming the existing structure is sufficient for the additional roof/solar loadings. The design will include all dead, live, snow, wind, seismic and thermal loading conditions. Structural drawings of the existing garage are available for the Design-Build teams use.
2. All design work will be done under the direction of a Professional Engineer registered in the State of South Carolina. All permit/bid documents will be sealed by a Professional Engineer registered in the State of South Carolina.
3. All design work will be in accordance with the following codes:
  - a. South Carolina Building Code, 2021.
  - b. International Building Code, 2021.
  - c. ASCE 7-16, Minimum Design Loads for Buildings and Other Structures.
  - d. ACI 318-19, Building Code Requirements for Structural Concrete.
  - e. AISC 360-16, Specification for Structural Steel Buildings.
  - f. AISC 303-16, Code of Standard Practice for Steel Buildings and Bridges.
  - g. ANSI/SDI RD-2017, Standard for Steel Roof Deck.
  - h. ANSI/AWS D1.1, Structural Welding Code – Steel.

### B. Structural Design

1. The structural system for the new roof and solar array will be structural steel consisting of wide flange, tube, pipe, or channels shapes.
2. Lateral resistance will be provided by moment frames and/or braced frames. Vertical bracing is to be located at the head-in end of parking stalls only. Vertical bracing is not permitted along the length of parking stalls or in drive aisles in any manner.
3. The roof/solar array framing system will maintain column free parking bays. New roof/solar array columns are to be located over the top of existing garage concrete columns.
4. The new roof/solar array framing system will be designed in a manner that does not reduce the current parking count, impact traffic flow, or impede pedestrian egress.
5. The new roof/solar array framing will provide sun and rain protection over all parking stalls. The framing will also be designed to allow for the future installation of deck/roof/solar over drive aisles not currently covered under this project.



6. Expansion joint locations in the existing parking structure are to be maintained up through the roof/solar array structure.
7. The Design-Build team should note that the existing parking garage slabs and beams are post-tensioned. Any drilling in the existing concrete slabs and beams will be scanned prior to drilling to locate all rebar and post-tension tendons. Cutting, coring, or drilling through any rebar or PT is not permitted.
8. The new roof/solar array structure designed and constructed in a durable manner that minimizes future maintenance issues. All structural steel including plates, bolts, anchors, etc. will be hot dip galvanized. All field welds will have two coats of zinc rich epoxy primer applied after welding is complete.
  - a. Provide alternate deduct price to provide a primed and painted steel frame system in lieu of a hot-dip galvanized system.
9. The new roof/solar array framing will maintain 10'-0" clearance from the third-floor slab throughout the garage.
10. The overall height of the new roof/solar array will not exceed 289'-0".
11. The solar array system can be utilized to provide the rain and sun protection of the parking stalls provided it is water-tight system and extends over the areas noted on the drawings.
12. The roof/solar array framing system can be designed as a mono-slope system or a sawtooth system. With either system rainwater is to be collected in a gutter/drain system and not permitted to drip onto the parking deck below.
13. The roof/solar array framing system will be designed to include the dead load weight of a solar array (now or in the future), roofing system, signage, lighting, and parking guidance system.

## **Mechanical, Plumbing, & Fire Protection Narrative**

### **A. Overview**

1. This project consists of new elevated structures to be installed on the existing roof level of the Columbia Metropolitan Airport (CAE) parking garage. The structure(s) will be designed to support both separate under-canopy lighting and photovoltaic (PV) solar system for energy generation.

### **B. General**

1. Complete installations will be in accordance with the applicable provisions of the following codes, standards, and guidelines:
  - a. International Building Code (IBC), 2021 Edition, with SC Modifications
  - b. International Existing Building Code (IEBC), 2021 Edition, with SC Modifications.
  - c. International Fire Code (IFC), 2021 Edition, with SC Modifications
  - d. International Mechanical Code (IMC), 2021 Edition, with SC Modifications



- e. International Plumbing Code (IPC), 2021 Edition, with SC Modifications
- f. International Energy Conservation Code (IECC), 2009 Edition or ASHRAE 90.1-2007
- g. National Fire Alarm and Signaling Code (NFPA 72), 2019 Edition
- h. National Electrical Code (NFPA 70), 2020 Edition
- i. National Electrical Safety Code (NESC/ANSI C2), 2020 Edition
- j. Standard for the Installation of Sprinkler Systems (NFPA 14), 2019 Edition
- k. All other applicable local codes and ordinances.

All trenching, backfilling, cutting, and patching as required for the provision of work will be provided.

Seismic restraint and mounting of mechanical, electrical, plumbing, and fire protection systems and equipment will be provided as required by the International Building Code.

All equipment foundations and mountings will be provided, including, but not limited to equipment foundation pads, housekeeping pads, supplementary steel, bracing, hardware and mounting devices and brackets.

All penetrations through rated walls, floors and partitions will be provided with a UL-listed through-penetration assembly with fire/smoke rating equal to the construction being penetrated.

Install all equipment and materials in accordance with manufacturer's instructions and recommendations.

Coordinate and obtain permits and inspections from Authority Having Jurisdiction (AHJ).

Provide all labor, equipment, material and operations required for complete, safe and energy-efficient mechanical systems as described herein.

Refer to narratives and drawings for all trades for scope of work required.

Coordinate mechanical, plumbing, and fire protection work with other trades to avoid conflicts and interferences.

All material utilized will be new, clean, first quality and listed for applied use.

#### C. Demolition

Demolition work will comply with ANSI A10.6, NFPA 241, NEC, OSHA, AHERA and all applicable local, state, and federal standards and guidelines. All demolished materials will be promptly removed from site and will be properly and legally disposed of. The contractor is responsible for handling, storage, transportation, and disposal fees.

#### D. Mechanical Systems



The renovation will be designed and constructed per the applicable provisions of the following codes and standards:

- International Building Code (IBC) 2021 Edition.
- International Mechanical Code (IMC) 2021 Edition
- SMACNA
- ASHRAE (ASHRAE 90.1-2007)
- All federal, state, and local codes and ordinances that apply to this work.

Outdoor design conditions will be based on weather data for Columbia, South Carolina tabulated in the latest edition of the ASHRAE Handbook of Fundamentals. Winter conditions will be defined by the 99.6% column dry bulb temperatures. Summer conditions for sensible cooling will be defined by 0.4% column dry bulb temperature, with its mean coincident wet bulb temperature. Summer conditions for latent cooling and dehumidification will be defined by the 0.4% dew point, with its mean coincident dry bulb temperature. Target indoor design conditions are for summer 72°F/50% RH indoor temperature at 97°/79° outdoor conditions and for winter 68°-72° at 23°. The system will comply with ASHRAE Standard 62.1 for indoor air quality.

If the proposed PV and interconnect systems do not require the use of any new equipment/electrical rooms, then no mechanical work will be required.

Mechanical systems will be required for all new equipment/electrical rooms related to the installation and interconnect of the PV systems. All equipment rooms will be conditioned to the above requirements utilizing one of two system types. The final system type will be selected depending on equipment sensible heat release.

Equipment rooms with less than five tons of sensible heat release will be served by a Trane / Mitsubishi ductless DX split/multiport system(s).

Equipment rooms with five tons or more of sensible heat release will be served by a Liebert DX split system(s).

Equipment rooms will be provided with refrigerant purge systems as required in the 2021 IMC chapter 11.

All equipment will be provided with necessary controls to interconnect with existing building automation system (Alerton Controls).

### Mechanical Specifications

- a. Provide all materials and labor for complete and properly functioning mechanical systems. Warranty compressors for five years and warranty all other work and materials, equipment and devices for a period of one year after owner's acceptance.
- b. All materials, equipment and devices will meet the requirements of UL where UL standards are established for those items. All items will be classified by UL as suitable for the purpose used.



- c. Coordinate mechanical work with other trades to avoid conflicts and interferences.
- d. Install all equipment and material in accordance with manufacturer's written instructions and recommendations.
- e. Provide owner with certificates of final inspections and acceptance from authority having jurisdiction.
- f. All equipment, pipe and ductwork above ceiling will be supported from building structure above.
- g. All building penetrations will be coordinated with architect and structural engineer.
- h. Provide seismic restraints in accordance with International Building Code.
- i. Mechanical contractor will provide independent testing and balancing of the HVAC systems. Balance system to air flows as directed. Provide test and balance report to engineer for approval.
- j. Prior approvals required within ten (10) business days of the bid date.
- k. Shop drawings are to have both the general contractor's review stamp and the mechanical contractor's review stamp.

#### F. Plumbing Systems

The renovation will be designed and constructed per the applicable provisions of the following codes and standards:

- International Building Code (IBC) 2021 Edition.
- International Plumbing Code (IPC) 2021 Edition
- All federal, state, and local codes and ordinances that apply to this work.
- NFPA

The proposed PV/canopy system will include built-in gutters with downspouts intermittently installed throughout the system.

All downspouts will be routed to an existing drain on the third floor. See attached drawing P001 for existing third floor drain locations. All downspouts will be routed down new columns of PV/canopy structure to upper deck drains. Where offsets are required from the PV/canopy system gutters to structural columns, all drainage lines will be sized based on catchment area and the 100-year hourly rainfall rate. Sizing leader sizing will be slope no less than 1/8-inch per foot. The total drainage area to an existing drain will not exceed the allowable code drainage area based on the existing drain leader sizes and slope.

#### Plumbing Specifications

- a. Provide all materials and labor necessary for complete and properly functioning plumbing systems. Warranty all work and all materials, equipment, and devices for a period one year after owner's acceptance.



- b. All materials will meet the requirements of UL where UL standards are established for those items. All items will be classified by UL as suitable for the purpose used.
- c. All items will be new, and all materials/equipment/devices will be current products of manufacturers regularly engaged in the production of such products.
- d. Coordinated plumbing work with other trades to avoid conflicts and interferences.
- e. Install all equipment and materials in accordance with manufacturer's instructions and recommendations.
- f. Coordinate and obtain permits and inspections from authority having jurisdiction.
- g. Provide owner with certificate of final inspection and acceptance from authority having jurisdiction.
- h. Provide seismic restraints in accordance with IBC.
- i. Cleanouts will be line size unless noted otherwise.
- j. Floor drains will be line size unless noted otherwise.
- k. All waste, drain, and vent piping below grade will be solid core schedule 40 PVC. Waste, drain, and vent piping above grade will be service weight no hub, cast iron waste pipe with no hub fittings. Provide with ASTM C564 neoprene sealing sleeve and stainless-steel clamp assembly Husky 4000 or equal. All waste and drain piping receiving water in excess of 160°F will be cast iron.
- l. Where pipes penetrate rated walls, floors, or ceilings, seal opening around pipes with UL listed fire stopping material to maintain the fire rating of the wall, floor, or ceiling.
- m. All building penetrations will be coordinated with architect and structural engineer.
- n. Prior approvals required within ten (10) business days of the bid date.
- o. Shop drawings are to have both the general contractor's review stamp and the plumbing contractor's review stamp.

#### G. Fire Protection Systems

The renovation will be designed and constructed per the applicable provisions of the following codes and standards:

- International Building Code (IBC) 2021 Edition.
- International Fire Code (IFC) 2021 Edition
- NFPA 13 & 88A
- All federal, state, and local codes and ordinances that apply to this work.



The parking garage is currently equipped with a dry standpipe system. As a part of this project Lexington County Building Inspectors and Lexington County Fire Marshal will require upgrades to the existing Fire protection system.

The existing dry standpipe system currently contains six (6) hose connections on the first floor, ten (10) hose connections on the second floor, and ten (10) hose connections on the third floor. Three (3) new standpipe locations will be added to the existing system, providing three new hose connections on the second floor and three new hose connections on the third level. Refer to the attached Third Floor Fire Protection Plan and Detail (FP001) for current standpipe routing and hose locations along with the three new standpipe locations. Provide bollards to protect new standpipes from vehicle traffic.

Ground penetrating radar will be required to ensure post tensioned cabling / reinforcing is avoided at all slab penetrations.

#### Fire Protection Specifications:

1. Fire protection contractor will provide a fire protection system for the proposed building in accordance with all NFPA, state and local codes. System will include valves, controls, piping and all other associated materials and labor to properly install and operate system.
2. Fire protection system piping will be hydraulically calculated and meet all requirements of NFPA, state and local codes. Fire protection contractor will provide shop drawings and hydraulic calculations to engineer for approval before any work begins.
3. Fire protection contractor will be responsible for submission of hydraulic calculations and all piping shop drawings to the authority having jurisdiction for approval and any re-submission for these reviews. Fire Protection contractor is solely responsible for all code compliance as directed by all code officials without additional cost to the owner for the re-submission or any additional installation work required.
4. Fire protection contractor will coordinate and verify all fire rated walls, partitions, and slabs with general contractor. Provide UL approved penetrations of all rated walls, partitions, and slabs.
5. Fire protection contractor will coordinate routing of all piping to avoid conflict with all mechanical, plumbing, and electrical piping, conduits, ductwork, etc.
6. Fire protection contractor is responsible for verifying all architectural and structural drawings for coordination of pipe routing to avoid structural barriers.

## **Electrical Narrative**

### A. Overview

1. This project consists of a new canopy structure(s) to be installed on the existing roof level of the Columbia Metropolitan Airport (CAE) parking garage. The structure(s) will be designed to support photovoltaic (PV) solar system for energy generation as well as required building system components such as under-canopy lighting, security, parking guidance, fire alarm, and similar systems.



2. The existing CAE airport terminal building and parking garage are both provided electrical service by Dominion Energy of South Carolina. These services are existing but will be modified by this expansion. The main switchboard for the airport terminal will be modified to support interconnection requirements between the utility and one portion of the new PV system. The existing parking garage utility pad-mounted transformer will be modified to support another portion of the new PV system. The existing parking garage distribution system will be modified as required to support new under-canopy lighting and other required electrical loads.

## B. General

1. Complete installations will be in accordance with the applicable provisions of the following codes, standards, and guidelines:
  - 2021 International Building Code (IBC) with SC modifications
  - 2021 International Existing Building Code (IEBC)
  - 2021 International Residential Code (IRC) with SC modifications
  - 2021 International Fire Code (IFC) with SC modifications
  - 2020 National Electrical Code (NEC) (NFPA 70) with SC modifications
  - 2009 International Energy Conservation Code (IECC)
  - 2017 ICC/ANSI A117.1, Accessible and Useable Buildings and Facilities
  - 2019 National Fire Alarm and Signaling Code (NFPA 72)
  - 2017/2023 National Electrical Safety Code (NESC/ANSI C2)
  - 2021 Standard for Electrical Safety in the Workplace (NFPA 70E)
  - Various ANSI/IES, Illuminating Engineering Society of North America (IESNA)
  - Institute of Electrical and Electronics Engineers (IEEE)
  - Underwriters Laboratories (UL)
  - Federal, State, and all other applicable local codes and standards
2. All trenching, backfilling, cutting, and patching as required for the provision of work will be provided.
3. Seismic restraint and mounting of electrical systems and equipment will be provided as required by the International Building Code.
4. All equipment foundations and mounting will be provided, including, but not limited to equipment foundation pads, housekeeping pads, supplementary steel, bracing, hardware and mounting devices and brackets.
5. All penetrations through rated walls, floors and partitions will be provided with a UL-listed through-penetration assembly with fire/smoke rating equal to the construction being penetrated.
6. Install all equipment and materials in accordance with manufacturer's instructions and recommendations.
7. Coordinate and obtain permits and inspections from Authority Having Jurisdiction (AHJ).
8. Provide all labor, equipment, material and operations required for complete, safe, energy efficient and quietly operating electrical systems as described herein.
9. Refer to narratives and drawings for all trades for scope of work required.



10. Coordinate electrical work with other trades to avoid conflicts and interferences.
11. All material utilized will be new, clean, first quality and listed for applied use.
12. All work will be provided in accordance with best practice, in a neat and workman like manner, and in accordance with National Electrical Contractors Association Standard Practices for Good Workmanship in Electrical Contracting (NECA 1).

C. Demolition

1. The intent of electrical demolition is to remove existing electrical work as required to accommodate new work in support of the canopy and solar addition to the parking garage. All work will be coordinated with Owner and General Contractor, with temporary wiring and associated electrical work provided as required to maintain existing systems to remain in service during and following demolition phase.
2. The existing parking garage utility pad-mounted transformer and electrical service is existing to remain. The existing utility pad-mounted transformer pad will be modified as required to support connection to new garage PV system.
3. The existing main terminal building utility pad-mounted transformer and electrical service is existing to remain. The existing main switchboard will be modified as required to support connect to new garage PV system.
4. Existing communication services serving each floor of the garage will remain intact; unused equipment and wiring in spaces being renovated will be demolished, with care taken not to impact other portions of the building.
5. Existing panelboards, transformers, and similar electrical distribution equipment will remain. Rework as required to support renovations, utilizing spare circuit breakers and/or providing new as required for new circuits.
6. Existing lighting system and controls outside of the work area will remain. Rework existing lighting and provide new as required to support renovations.
7. Existing fire alarm, security, access controls and other low voltage systems outside of the work area will remain. Rework within work area as required to support renovations.
8. All abandoned wiring systems in new work areas of the building will be removed. Demolition will include existing raceways, conductors, boxes, supports, devices, and lighting.
9. Existing raceway and wiring systems reused as part of this contract will be reworked as required to comply with requirements for new work and current codes and standards.
10. All rework and/or relocation of existing raceways, junction boxes, devices, wiring systems and the like will be provided as required to accommodate new construction.
11. Interruptions in electrical service as required for this work will be coordinated with and approved by owner a minimum of 96 hours prior to performing work.



12. Demolition work will comply with ANSI A10.6, NFPA 241, NEC, OSHA, AHERA and all applicable local, state and federal standards and guidelines. All demolished materials will be promptly removed from site and will be properly and legally disposed of. Contractor is responsible for all handling, storage, transportation and disposal fees.

#### D. PV System

1. The electrical utility serving the site is Dominion Energy, Inc. All work required for PV interconnection to the utility transformer will be included and will be coordinated with Dominion Energy. The contractor will include interconnection raceway, wiring, and metering provisions. PV interconnection feeder will be sized to suit service and will be routed underground and above ground as required.
2. All new PV equipment is being located on the top deck of the parking structure. The PV equipment will be split into two separate systems.
  - a. The PV system to be connected to the existing terminal building service will have a maximum output 2.0MW (AC).
  - b. The PV system to be connected to the existing parking structure service will have a maximum output 493KW (AC).
3. DC electricity generated via the solar arrays will be fed through DC combiner boxes to consolidate the power output.
4. Multiple Inverters will take the DC outputs from the combiner boxes and transform it to AC power.
5. AC power from the inverters will be collected to two separate distribution cabinets/switchboards/panelboards.
  - a. All new PV equipment is being located on the top deck of the parking structure. The PV equipment will be split into two separate systems: The PV system to be connected to the existing terminal building service will have a maximum output 2.0MW (AC).
  - b. The PV system to be connected to the existing parking structure service will have a maximum output 493KW (AC).
6. The terminal main switchboard is an 8000A, Square D, QED style switchboard with an MLO configuration. The switchboard is divided into two 4000-amp sections. The second 4000A section will be modified and reconfigured to accommodate the PC interconnection feeder.
  - a. The switchboard modification will consist of removing the existing section containing the 700A/3P, 800A/3P, and the 400A/3P circuit breakers to facilitate the installation of two new circuit breakers.
  - b. The switchboard will be retrofitted to include a new section containing a 2500A/3P circuit breaker for connection to the PV interconnection feeder as well as a new 2000A/3P circuit breaker to feed a new 2000A switchboard to serve the relocated loads (700A/3P, 800A/3P, and the 400A/3P circuit breakers).



- c. The new switchboard section will be located as approved by the owner and will be rated for a minimum of 2000A, 277/480V, three-phase, four-wire, 100K AIC. In addition to the 700A, 800A, and 400A circuit breakers for relocated loads, a spare 800A/3P breaker and space provisions for 2 x 400A/3P circuit breakers will be provided. The loads served by the relocated circuit breakers will be reconnected complete to the new switchboard section.
7. The interconnection feeder between the existing utility pad-mounted transformer and 2500A distribution panel will consist of a minimum of eight parallel sets of four-inch conduits each with 4#500KCMIL. Interconnecting feeder size will be based on final routing/conductor length – voltage drop will not exceed 3%.
8. The switchboard modification will consist of removing the existing section containing the 700A/3P, 800A/3P, and the 400A/3P circuit breakers to facilitate the installation of two new circuit breakers.
9. The switchboard will be retrofitted to include a new section containing a 2500A/3P circuit breaker for connection to the PV interconnection feeder as well as a new 2000A/3P circuit breaker to feed a new 2000A switchboard to serve the relocated loads (700A/3P, 800A/3P, and the 400A/3P circuit breakers).
10. The new switchboard section will be located as approved by the owner and will be rated for a minimum of 2000A, 277/480V, three-phase, four-wire, 100K AIC. In addition to the 700A, 800A, and 400A circuit breakers for relocated loads, a spare 800A/3P breaker and space provisions for 2 x 400A/3P circuit breakers will be provided. The loads served by the relocated circuit breakers will be reconnected complete to the new switchboard section.

#### E. Power Distribution

1. Power distribution will be at 277/480 volts, three-phase, four-wire wye. Feeders and equipment will generally be sized to suit loads.
2. Panelboards, disconnects, other similar equipment will be Square D, Eaton, General Electric/ABB, or Siemens.
3. Panelboards will be bolt-in circuit breaker type.
4. All conductors will be installed in raceway: Electrical Metallic Tubing (EMT) will be used above grade or exposed indoors where not subject to physical damage. Rigid Steel Conduit (RSC) or Intermediate Metallic Conduit (IMC) will be used where subject to physical damage. Coated Rigid Steel Conduit (RSC) or Schedule 40 PVC will be used where installed below grade or in concrete.
5. All service, feeder and branch circuit conductors will be copper. All power wiring will copper, #12 AWG minimum. Insulation will be rated 600 volts. Conductors will be color coded as required by local code.
6. General lighting will be served at 277 volts. Receptacles, and other general loads will be served at 120 volts. Weather-proof, GFI rated receptacles will be provided nearby inverters and DC combiner boxes to support maintenance of PV equipment.
7. Existing distribution panels located in the electric rooms of parage garage levels 1 and 2, will be modified to serve new lighting loads for canopy structures.



#### F. Branch Circuits

1. Branch circuits in will be wire in conduit unless noted otherwise.
2. Wiring Devices will be Pass & Seymour, Hubbell, Leviton or equal.
  - a. General purpose receptacles will be specification grade NEMA 5-15R duplex receptacles unless otherwise indicated.
  - b. Lighting switches will be specification grade 120/277 volts.

#### G. Lighting

1. Provide demolition/modification of existing pole and building mounted area lighting on top deck of garage and at ramps as required to support new and solar components.
2. All lighting will be LED, architectural grade, cut-off type, to match architectural details of the canopy structure and designed in sizes appropriate for the areas they serve.
3. Parking and ramp lighting levels and uniformity will be in accordance with current IESNA guidelines.
4. Provide all required under canopy mounted lighting.
5. Provide under canopy mounted emergency egress lighting in accordance with IBC and Life Safety Code. Exterior emergency egress lighting will be backed up by battery power, minimum 90-minute rating.
6. Automatic lighting control will be provided for all lighting and will match existing control system.
7. A new electric room will be constructed on the parking deck level to extend the lighting control system. The electric room may house new lighting control panels in addition to power distribution components.

#### H. Structured Cabling

1. The parking garage expansion will require demolition and rework of existing communication system. All work required for modifications and extensions of existing services will be coordinated with respective utilities. Conduits will be sized to contain the required communication systems for CATV, telephone and data services. Pull ropes will be provided for communication cabling, which will be installed by others.
2. New structured cabling systems will consist of raceway infrastructure for telephone, data, access controls, security, and minimal A/V equipment, making a complete, safe and operable raceway system ready for cabling and equipment provided by the Owner's vendors.
3. Device boxes will be stubbed to nearest accessible ceiling space or equipment cabinet or plywood. Minimum conduit size will be 3/4-inch, with pull rope provided in all empty raceways.



4. A new IT room will be constructed on the parking deck level to extend the communication system. The electric IT room will house new communication system components in addition to access control systems components.

#### I. Fire Alarm and Detection System

1. Demolition/rework of existing roof fire alarm will be required to support installation of new parking garage structure(s). The existing Edwards EST4 addressable type Fire Alarm system will be reused as part of this work. Existing devices and components will be reused where possible, with new work provided to suit solar canopy system.
2. A new fire riser room will be constructed on the parking deck to extend the existing fire alarm system.
3. Fire Alarm System modifications will be in accordance with the applicable editions of NFPA 70, NFPA 71, NFPA 72, NFPA 75, NFPA 90A, NFPA 101, International Fire Code (IFC), ICC/ANSI A117.1 and other applicable local codes.
4. All new fire alarm equipment, panels, modules, relays and raceways will withstand the effects of earthquake motions determined according to ASCE/SEI 7.
5. Characteristics: Manually and automatically actuated, electrically supervised capable of automatically reporting a local general alarm and transmitting a fire signal via existing telephone communicator. System will include the following basic components:
  - a. Automatic photoelectric type smoke detectors. Smoke detectors will be provided at new fire alarm equipment, and in affected electrical rooms, data/telephone closets, and storage rooms.
  - b. Horn/strobes will be provided in accordance with local codes.
  - c. Monitoring of flow and tamper switches and other components as required for fire sprinkler system.
6. All fire alarm conductors and cables will be installed in metallic conduit.
7. Emergency power to the fire alarm system will be via battery backup, integral with the fire alarm control panel or in adjacent enclosures. Battery capacity will be capable of maintaining the system in a supervisory, standby condition for a period of at least 24 hours, with sufficient power capability after the 24-hour standby period for 15 minutes of alarm condition operation.

#### J. Security System

1. Demolition/rework of existing security system will be required to support installation of new parking garage structure(s).
2. Conduit and 120-volt power will be provided as required for extension of security system, making a complete, safe and operable raceway system ready for cabling and equipment provided by the Owner's security vendor.



3. Device boxes will be stubbed to nearest accessible ceiling space or equipment cabinet or plywood. Minimum conduit size will be 3/4-inch, with pull cord provided in all empty raceways.
4. A new IT room will be constructed on the parking deck floor for extension of security system. The IT room will house new access control panels in addition to communication system components.

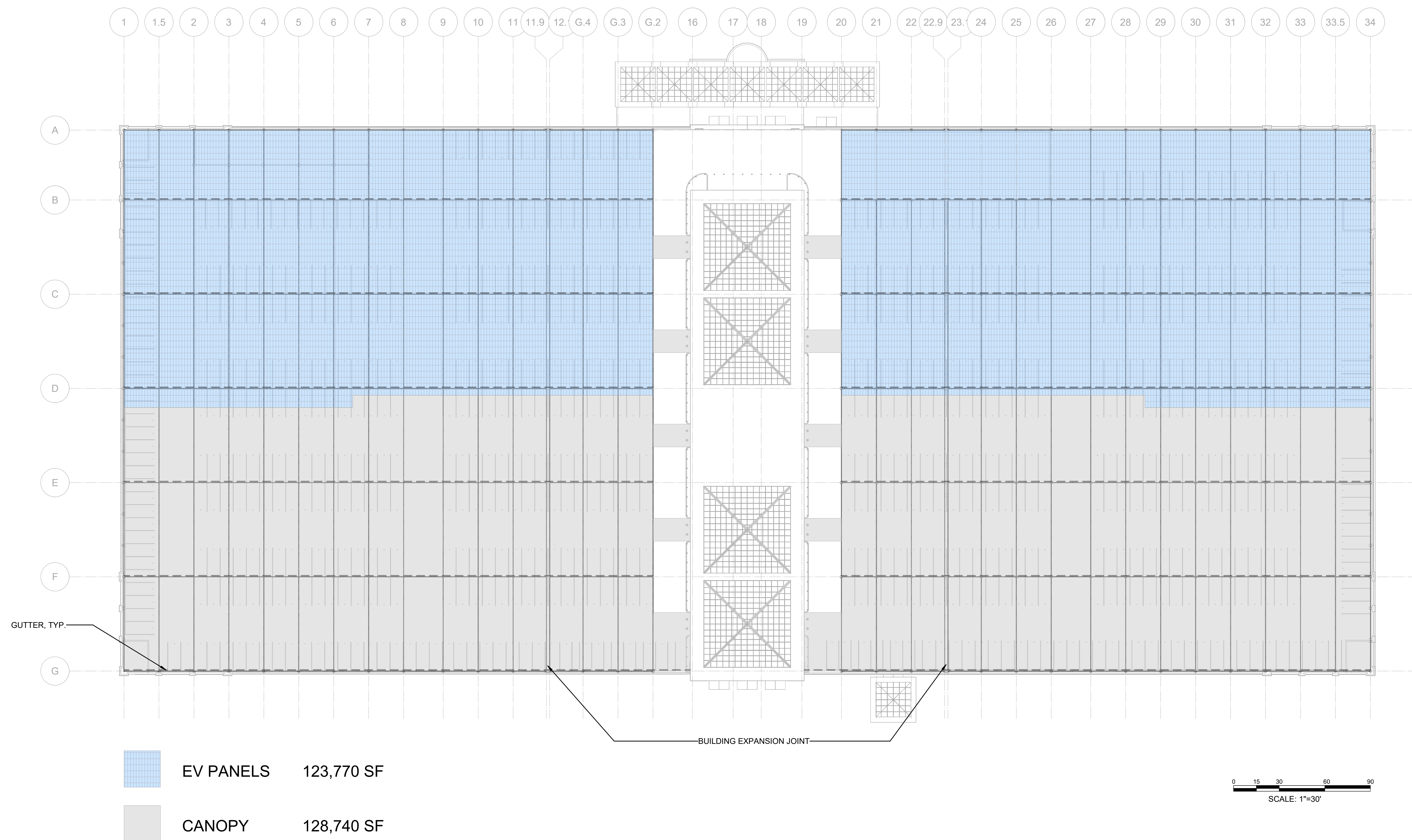
K. Lightning Protection System

1. Provide complete UL-Approved master-labeled lightning protection system. Comply with LPI-175, NFPA 70, NFPA 780, UL96/96A and all local codes.
2. All connections will be by exothermic weld. All corners of each parking structure roof are required to have an air terminal.
3. Air Terminals: Solid copper, bronze, or aluminum, minimum 1/2-inch diameter; lengths and bases to suit mounting conditions and to comply with Master Label requirements.
4. Conductors: Stranded, minimum AWG #15 strand, copper; minimum weight 375 pounds per 1000 feet, or equivalent aluminum.
5. Ground Rods: 3/4-inch x 10-foot copper clad steel with direct-burial clamps or exothermic weld connections.
6. Raceways: Non-metallic only; minimum wall thickness Schedule 40.
7. Concealment: Run all conductors concealed in Schedule 40 PVC conduit embedded in structure or concealed in building cavities. Roof conductors will be run exposed.
8. Bonding: Bond all metal structures, equipment, structural metal and piping on roof.
9. Groundings: Provide groundings to comply with UL requirements. Each grounding point will consist of three ground rods driven 12 feet apart outside building and bonded together with down conductor cable.

L. Grounding

1. Ground system will have the following modification requirements.
  - a. All metallic raceways will be connected to the equipment grounding conductor and bonded to all metal components and enclosures. Conduits 1-inch or larger will be installed with ground-lug bushing.
  - b. A No. 6 bare copper grounding conductor will be connected to ground and extended to each communications backboard and connected to a copper grounding busbar mounted to the backboard.





## OPTION 2

### Columbia Metropolitan Airport Solar Array Canopy

**COLUMBIA**  
METROPOLITAN AIRPORT

**Foth**

**LS3P**

**THP**

**MECA**  
Mechanical Engineering  
Consulting Associates, Inc.

**GWA**  
Electrical Engineers

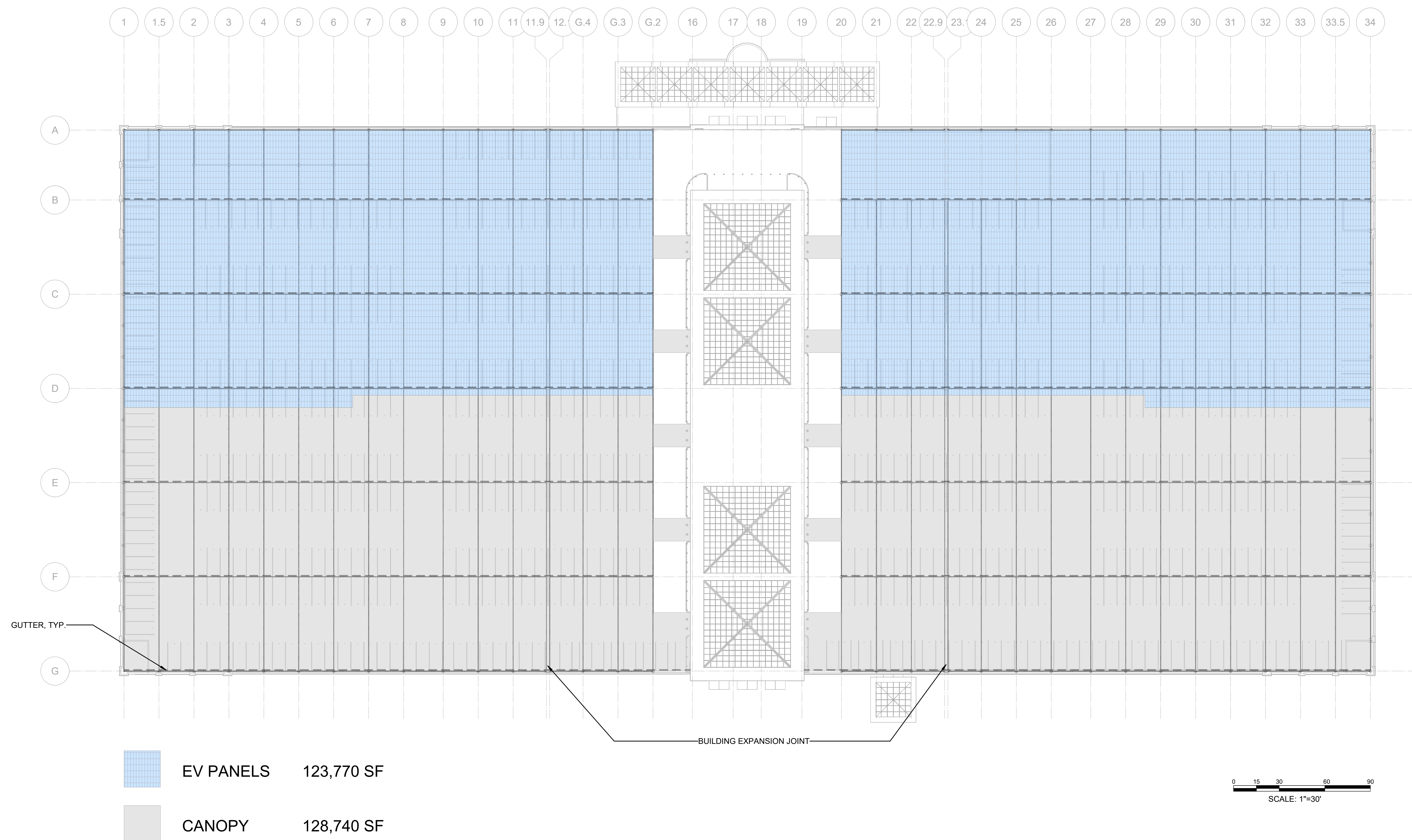
**SOLAR UNITED NATIONAL**

A101

LAYOUT 1

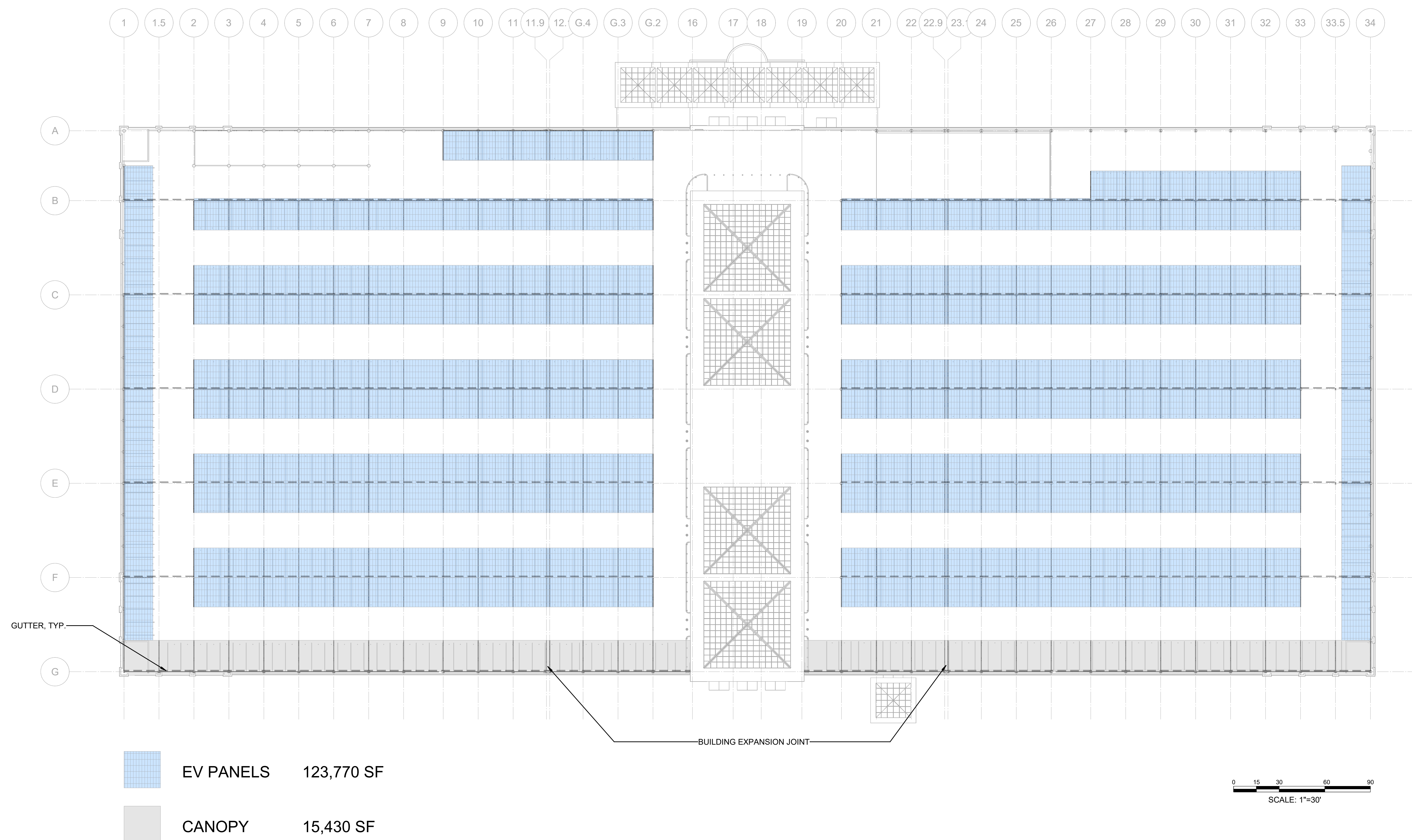
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### OPTION 3





OPTION 1

Columbia Metropolitan Airport Solar Array Canopy





OPTION 2





OPTION 2

Columbia Metropolitan Airport Solar Array Canopy

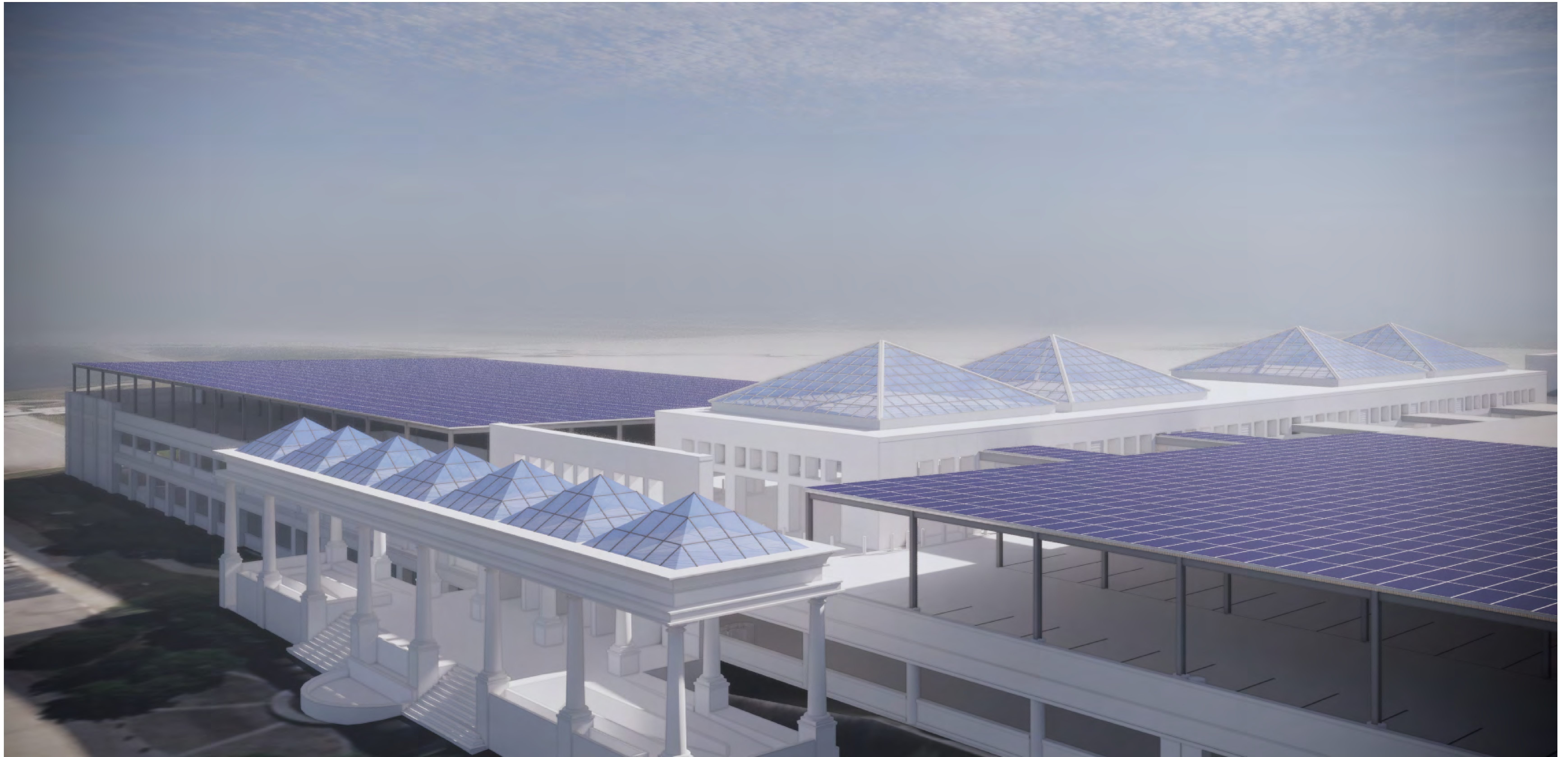
**COLUMBIA**  
METROPOLITAN AIRPORT



**A101.2**  
RENDERING  
1.2

04/14/25





OPTION 2





OPTION 2





OPTION 2





OPTION 3





OPTION 3

Columbia Metropolitan Airport Solar Array Canopy

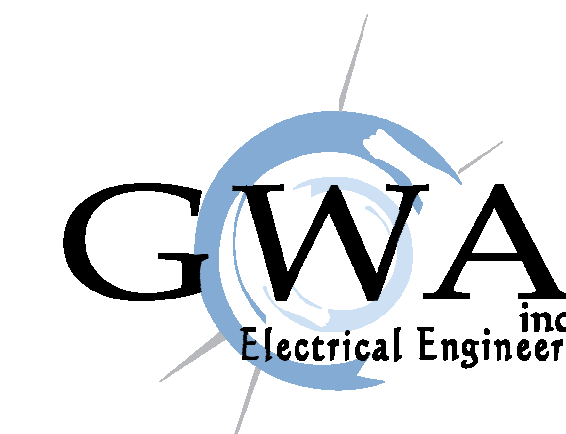
**COLUMBIA**  
METROPOLITAN AIRPORT

 **Foth**

**LS3P**

**THP**

 **MECA**  
Mechanical Engineering  
Consulting Associates, Inc.

 **GWA**  
Electrical Engineers

 **SOLAR UNITED NATIONAL**

**A102.2**  
RENDERING  
2.2

04/14/25





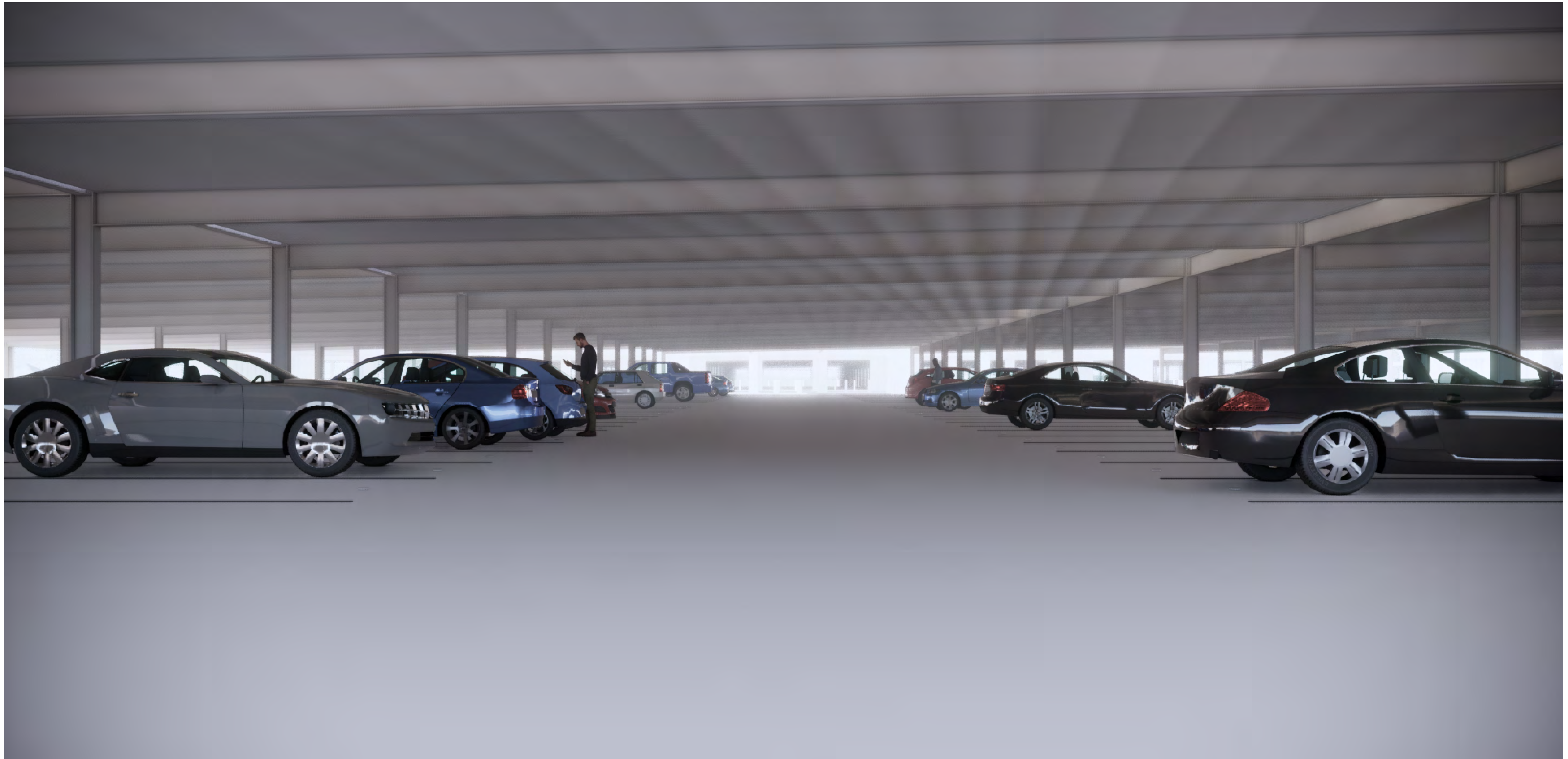
OPTION 3





OPTION 3





OPTION 3



GENERAL NOTES

STRUCTURAL DESIGN CRITERIA:

- A. THE DESIGN-BUILDER'S RESPONSIBILITIES INCLUDE BUT ARE NOT LIMITED TO THE FOLLOWING:
1. DESIGN OF A NEW ROOF STRUCTURE FOR APPLICABLE LOADINGS (DEAD, LIVE, SNOW, WIND, SEISMIC) AND APPROPRIATE CODE REQUIREMENTS.
  2. VERIFY THAT EXISTING GARAGE STRUCTURE AND FOUNDATIONS CAN SUPPORT THE NEW ROOF STRUCTURE.
- B. THE NEW ROOF STRUCTURE SHALL BE DESIGNED IN ACCORDANCE WITH THE FOLLOWING APPLICABLE CODES:
1. SOUTH CAROLINA BUILDING CODE, 2021.
  2. INTERNATIONAL BUILDING CODE, 2021.
  3. ASCE 7-16, MINIMUM DESIGN LOADS FOR BUILDINGS AND OTHER STRUCTURES.
  4. ACI 318-19, BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE.
  5. AISC 360-16, SPECIFICATION FOR STRUCTURAL STEEL BUILDINGS.
  6. AISC 303-16, CODE OF STANDARD PRACTICE FOR STEEL BUILDINGS AND BRIDGES.
  7. ANSISD1 RD-2017, STANDARD FOR STEEL ROOF DECK.
  8. ANSIAWS D1.1, STRUCTURAL WELDING CODE - STEEL.

STRUCTURAL LOAD CRITERIA:

- A. ROOF LOADS:
- ROOF LIVE LOAD, MINIMUM: 20 PSF
- ROOFING, MECHANICAL, AND SIGNAGE HANGING ALLOWANCE: 10 PSF
- ROOF LIVE LOADS TO BE INCREASED FOR SNOW DRIFT AND PONDING PER ASCE 7.
- B. FLOOR LOADS:
- EXISTING GARAGE FLOOR LIVE LOAD: 50 PSF.
- C. SNOW LOAD:
- GROUND SNOW LOAD:  $P_g = 10$  PSF
- SNOW EXPOSURE FACTOR:  $C_e = 1.0$
- THERMAL FACTOR:  $C_t = 1.2$
- SNOW LOAD IMPORTANCE FACTOR:  $I_s = 1.0$
- D. WIND LOAD:
- DESIGN WIND SPEED (3-SECOND GUST):  $V_{ult} = 115$  MPH; ( $V_{base} = 90$  MPH)
- RISK CATEGORY: II
- WIND EXPOSURE: B
- INTERNAL PRESSURE COEFFICIENT: ENCLOSED BUILDING,  $GCP_i = +/- 0.18$

E. EARTHQUAKE DESIGN DATA:

- RISK CATEGORY: II
- SEISMIC IMPORTANCE FACTOR:  $I_e = 1.0$
- MAPPED SPECTRAL RESPONSE ACCELERATION:  $S_a = 0.340$ ,  $S_1 = 0.125$
- SITE CLASS: D
- DESIGN SPECTRAL RESPONSE COEFFICIENT:  $S_{ds} = 0.346$ ,  $S_{d1} = 0.192$
- SEISMIC DESIGN CATEGORY: C

- F. LOADING REQUIREMENTS FOR VEHICULAR BARRIER SYSTEMS: 6,000 LBS OVER A 12'x12' AREA AT 1'-6" OR 2'-3" ABOVE THE FLOOR SURFACE.
- G. PEDESTRIAN GUARDS: 50 LBS PER FOOT OR 200 LBS POINT LOAD PLACED ANYWHERE ALONG THE GUARD TOP RAIL.

H. FUTURE PROVISIONS:

1. GARAGE ROOF STRUCTURE SHALL BE DESIGNED FOR SUPPORT OF A SOLAR ARRAY AS PART OF THIS PROJECT OR IN THE FUTURE.
2. GARAGE ROOF FRAMING SHALL BE DESIGNED WITH THE ABILITY TO COVER THE ENTIRE GARAGE WITH ROOFING/SOLAR IN THE FUTURE.

STRUCTURAL STEEL DESIGN CRITERIA

- A. ALL WORK SHALL CONFORM TO AMERICAN INSTITUTE OF STEEL CONSTRUCTION (AISC) STANDARDS.
- B. FABRICATOR SHALL MEET AISC CERTIFICATION STANDARD FOR STEEL BUILDING STRUCTURES.

C. MATERIAL:

1. WIDE FLANGE AND CHANNEL SHAPES: ASTM A992 (Fy 50 KSI).
2. STEEL PIPES: ASTM A53, TYPE E OR S, GRADE B (Fy 35 KSI).
3. HOLLOW STRUCTURAL SECTIONS (HSS): ASTM A500, GRADE C (Fy 50 KSI).
4. OTHER ROLLED SHAPES, ANGLES, PLATES AND BARS: ASTM A572 GRADE 50 (Fy 50 KSI).
5. BOLTS: ASTM F3125, GRADE F1852, TYPE 1, 120 KSI.

- D. ALL WELDING MATERIALS, WELDING PROCEDURES AND OPERATORS PERFORMING WELDING TO BE QUALIFIED PER AWS D1.1.

- E. AS PART OF THE BASE BID, ALL STRUCTURAL STEEL INCLUDING PLATES, BOLTS, ANCHORS, ETC. SHALL BE HOT DIPPED GALVANIZED. PROVIDE ALTERNATE DEDUCT PRICE FOR ALL STEEL TO BE PRIMED AND PAINTED IN LIEU OF HOT DIPPED GALVANIZED.

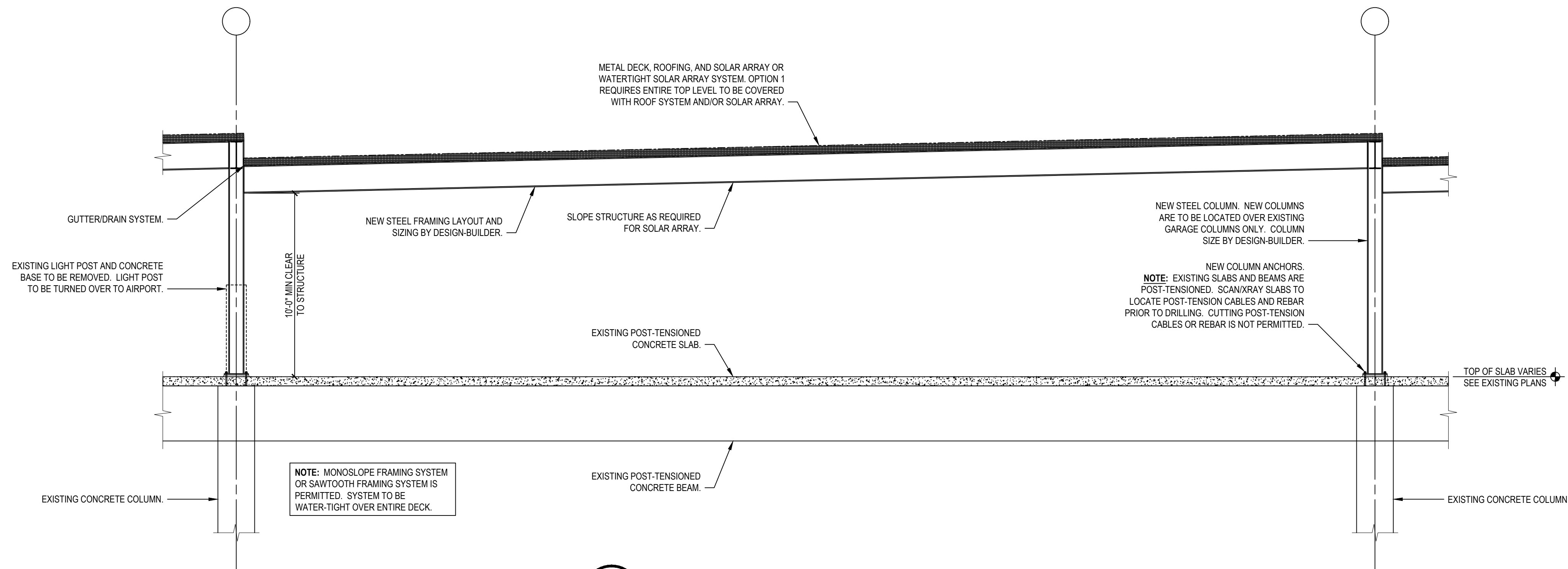
STRUCTURAL ROOF DECK DESIGN CRITERIA

- A. ALL WORK SHALL CONFORM TO STEEL DECK INSTITUTE (SDI) STANDARDS.
- B. DECK MANUFACTURER SHALL BE A CURRENT MEMBER OF SDI.

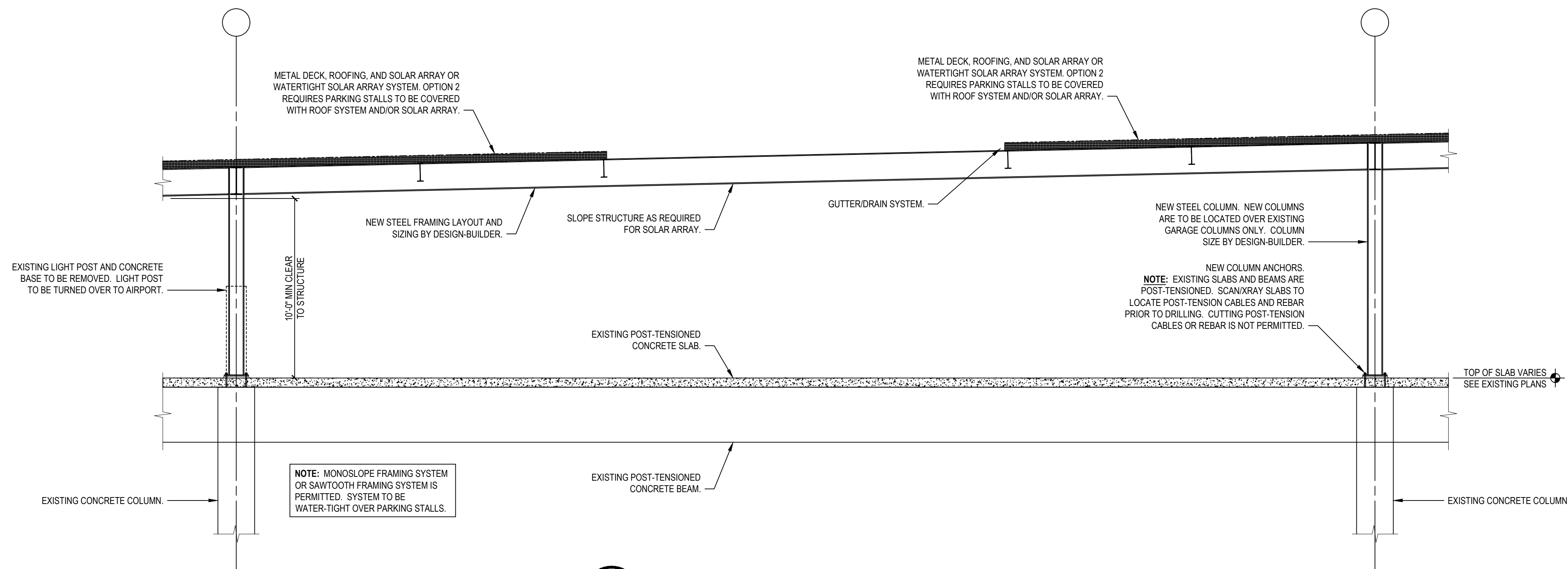
- C. MATERIAL: G-90 MINIMUM GALVANIZED STEEL, 20 GAGE MINIMUM THICKNESS.

POST-INSTALLED ANCHORS AND ADHESIVE ANCHORING IN CONCRETE

- A. POST-INSTALLED ANCHORS AND ADHESIVE ANCHORING SYSTEMS MUST BE TESTED AND APPROVED USING ICC EVALUATION SERVICE ACCEPTANCE CRITERIA, INCLUDING ICC-ES AC108, "MECHANICAL ANCHORS IN CONCRETE ELEMENTS" OR ICC-ES AC308, "POST-INSTALLED ADHESIVE ANCHORS IN CONCRETE ELEMENTS". CONCRETE SHALL BE CONSIDERED CRACKED. SUBMIT MANUFACTURER'S DATA AND EVALUATION REPORT (ESR) FOR PROPOSED ANCHORS, ADHESIVES, AND ANCHORING SYSTEMS. INDICATE SPECIFIC PROJECT LOCATIONS AND CONDITIONS WHERE PROPOSED FOR USE.
- B. ADHESIVE ANCHORING SHALL NOT BE USED IN OVERHEAD OR UPWARD CONDITIONS. FOR HORIZONTAL ADHESIVE ANCHOR APPLICATIONS, USE HYBRID ADHESIVE WITH ESR.
- C. ANCHORS SHALL BE HOT DIPPED GALVANIZED OR STAINLESS STEEL.
- D. THE EXISTING CONCRETE SLABS AND BEAMS ARE POST-TENSIONED. HOLES INTO CONCRETE MUST NOT INTERFERE WITH REINFORCING BARS OR POST-TENSIONING TENDONS. THE CONTRACTOR SHALL REVIEW THE STRUCTURAL DRAWINGS AND USE PERFO-SCAN OR OTHER MEANS TO LOCATE REINFORCING BARS AND POST-TENSIONING TENDONS IN THE AREA. SPACE HOLES TO FIT AROUND REBAR AND PT, SET ANCHORS WITH A TEMPLATE AND FABRICATE FIXTURE TO MATCH.



1 SECTION  
S0.1 1/4"=1'-0"



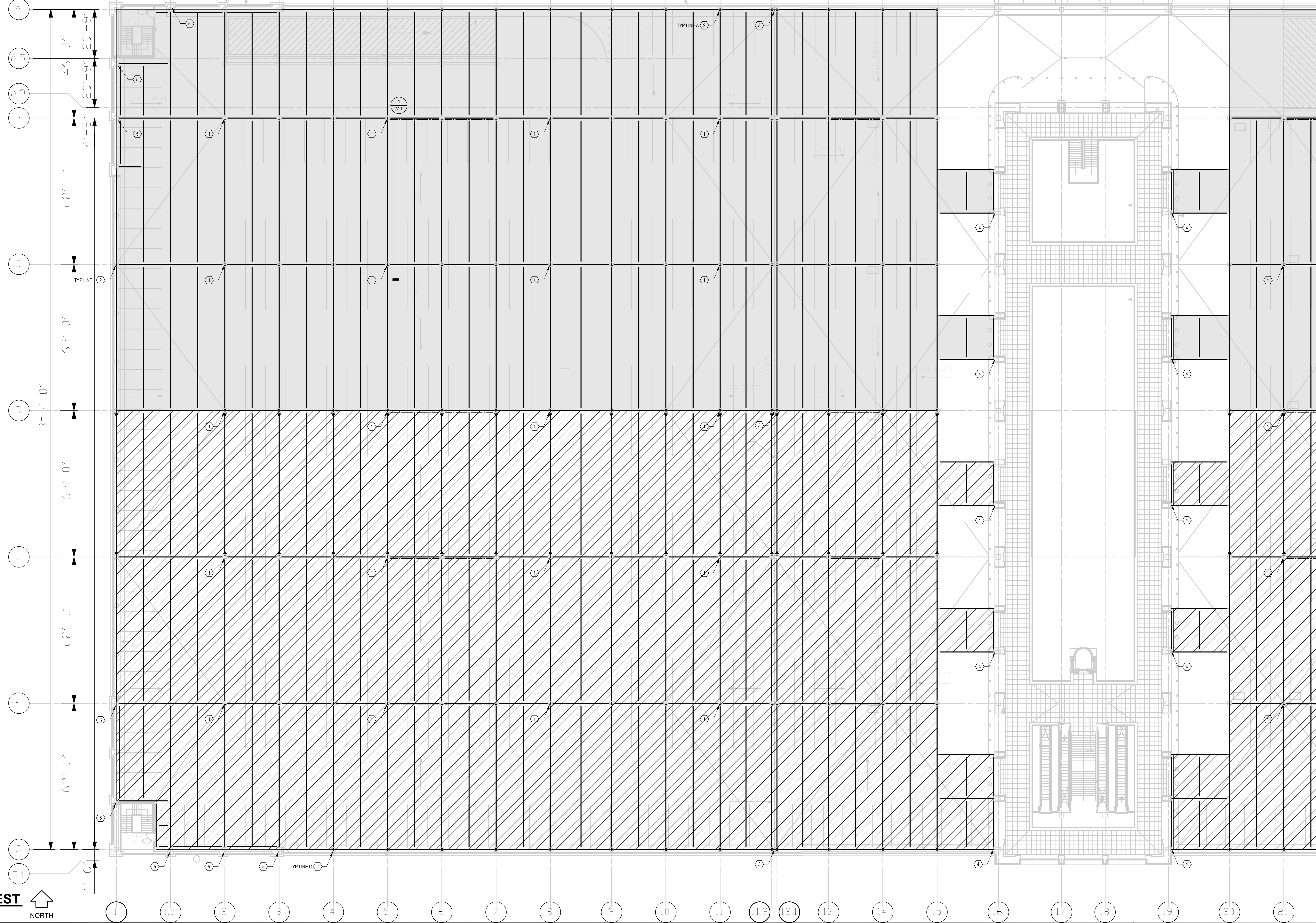
2 SECTION  
S0.1 1/4"=1'-0"

Foth Infrastructure Solutions | CAE Soar | 31 March, 2025



- LEGEND:**
- AREA TO HAVE SUNRAIN PROTECTION VIA SOLAR ARRAY OR SOLAR ARRAY OVER METAL DECK AND ROOFING
  - AREA TO HAVE SUNRAIN PROTECTION VIA METAL DECK AND ROOFING
  - PROPOSED COLUMN LOCATION. FINAL COLUMN LOCATIONS AND SIZES TO BE DETERMINED BY DESIGN-BUILDER
  - PROPOSED BEAM LOCATIONS. FINAL FRAMING LAYOUT AND MEMBER SIZES TO BE DETERMINED BY DESIGN-BUILDER
  - PROPOSED BRACING LOCATIONS. FINAL BRACING LOCATIONS AND MEMBER SIZES TO BE DETERMINED BY DESIGN-BUILDER
  - PROPOSED MOMENT CONNECTION LOCATIONS. FINAL LOCATIONS AND CONNECTION DETAILS TO BE DETERMINED BY DESIGN-BUILDER

- KEY NOTES:**
- EXISTING LIGHT POLE AND CONCRETE PEDESTAL TO BE REMOVED DOWN TO SLAB. LIGHT POLES TO BE TURNED OVER TO AIRPORT.
  - CHIP DOWN EXISTING COLUMN STUB AS REQUIRED TO PROVIDE LEVEL BEARING SURFACE.
  - GARAGE EXPANSION JOINT LOCATION. EXPANSION JOINT TO BE MAINTAINED AT NEW ROOF STRUCTURE.
  - PROVIDE EXPANSION JOINT/SLIP CONNECTION BETWEEN NEW ROOF AND EXISTING ATRIUM/ROOF FRAMING.
  - EXISTING CONCRETE COLUMN (H).



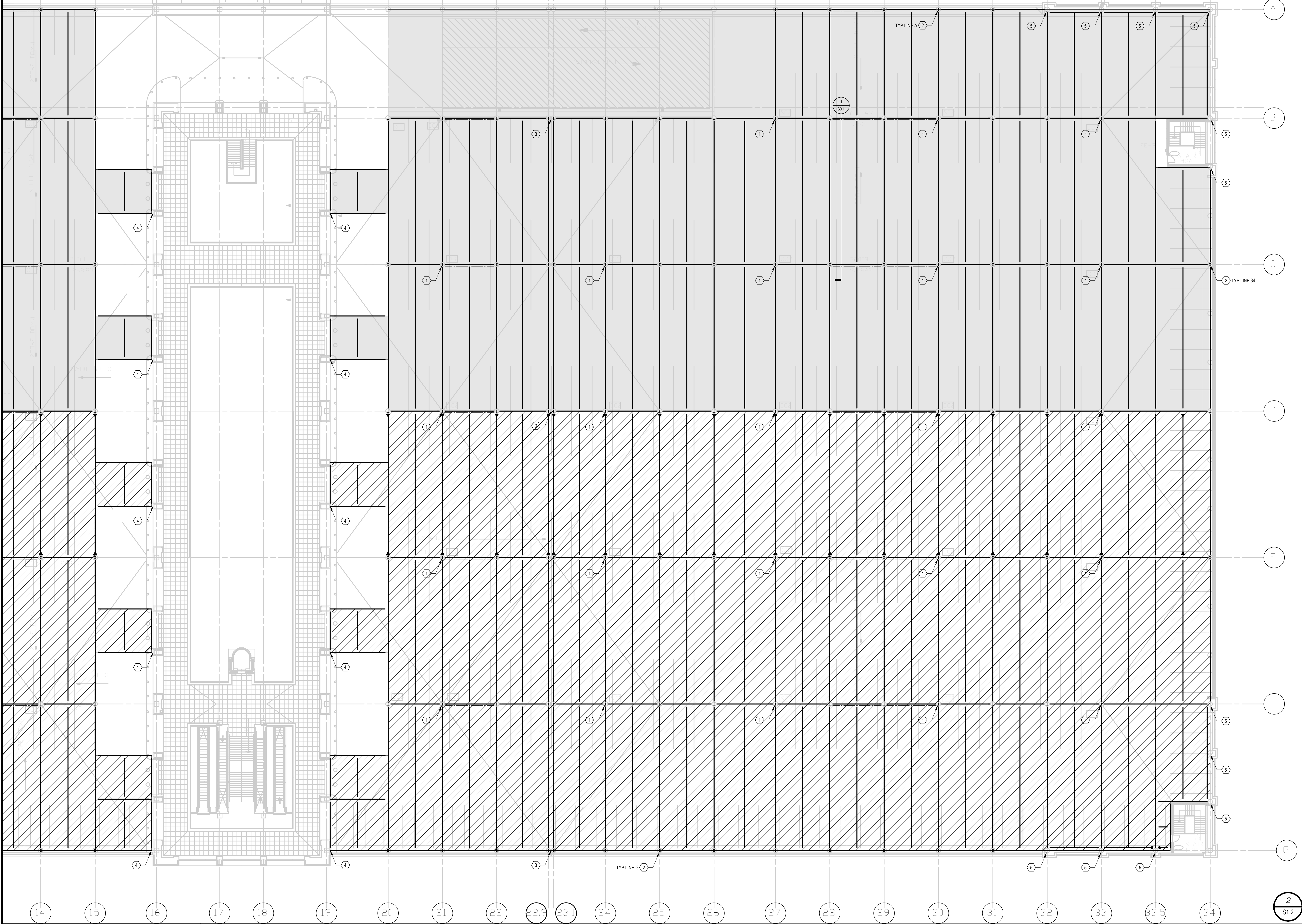
**FRAMING PLAN - OPTION 1 WEST**  
S1.1 1/16"=1'-0"  
NORTH

Foth Infrastructure Solutions | CAE Soar | 31 March, 2025

**S1.1**  
**OPTION 1**  
**WEST PLAN**





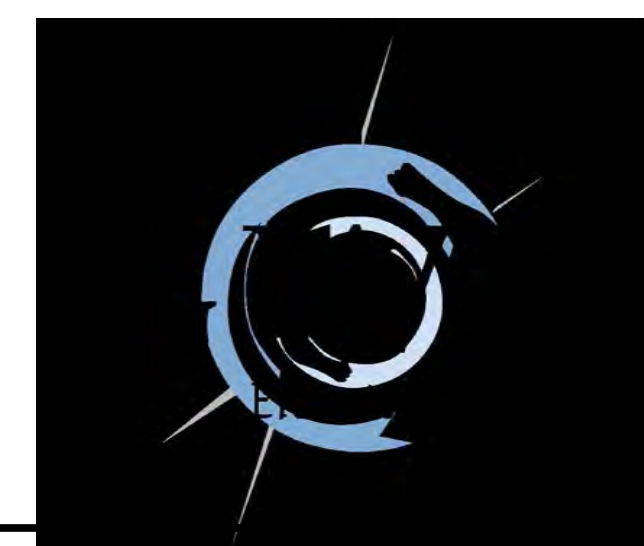
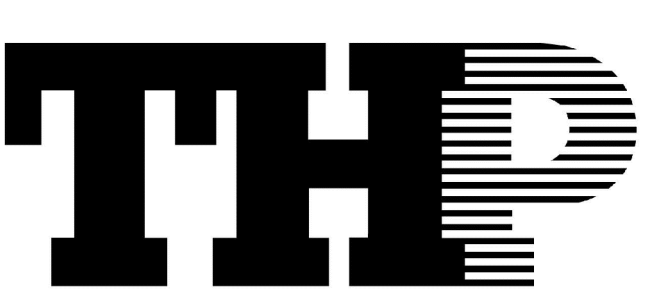


- LEGEND:**
- AREA TO HAVE SUNRAIN PROTECTION VIA SOLAR ARRAY OR SOLAR ARRAY OVER METAL DECK AND ROOFING
  - AREA TO HAVE SUNRAIN PROTECTION VIA METAL DECK AND ROOFING
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  - PROPOSED BRACING LOCATIONS. FINAL BRACING LOCATIONS AND MEMBER SIZES TO BE DETERMINED BY DESIGN-BUILDER
  - PROPOSED MOMENT CONNECTION LOCATIONS. FINAL LOCATIONS AND CONNECTION DETAILS TO BE DETERMINED BY DESIGN-BUILDER

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  - PROVIDE EXPANSION JOINT/SLIP CONNECTION BETWEEN NEW ROOF AND EXISTING ATRIUM ROOF FRAMING.
  - EXISTING CONCRETE COLUMN (H).

**2 S1.2 FRAMING PLAN - OPTION 1 EAST**  
1/16"=1'-0" NORTH

Foth Infrastructure Solutions | CAE Soar | 31 March, 2025

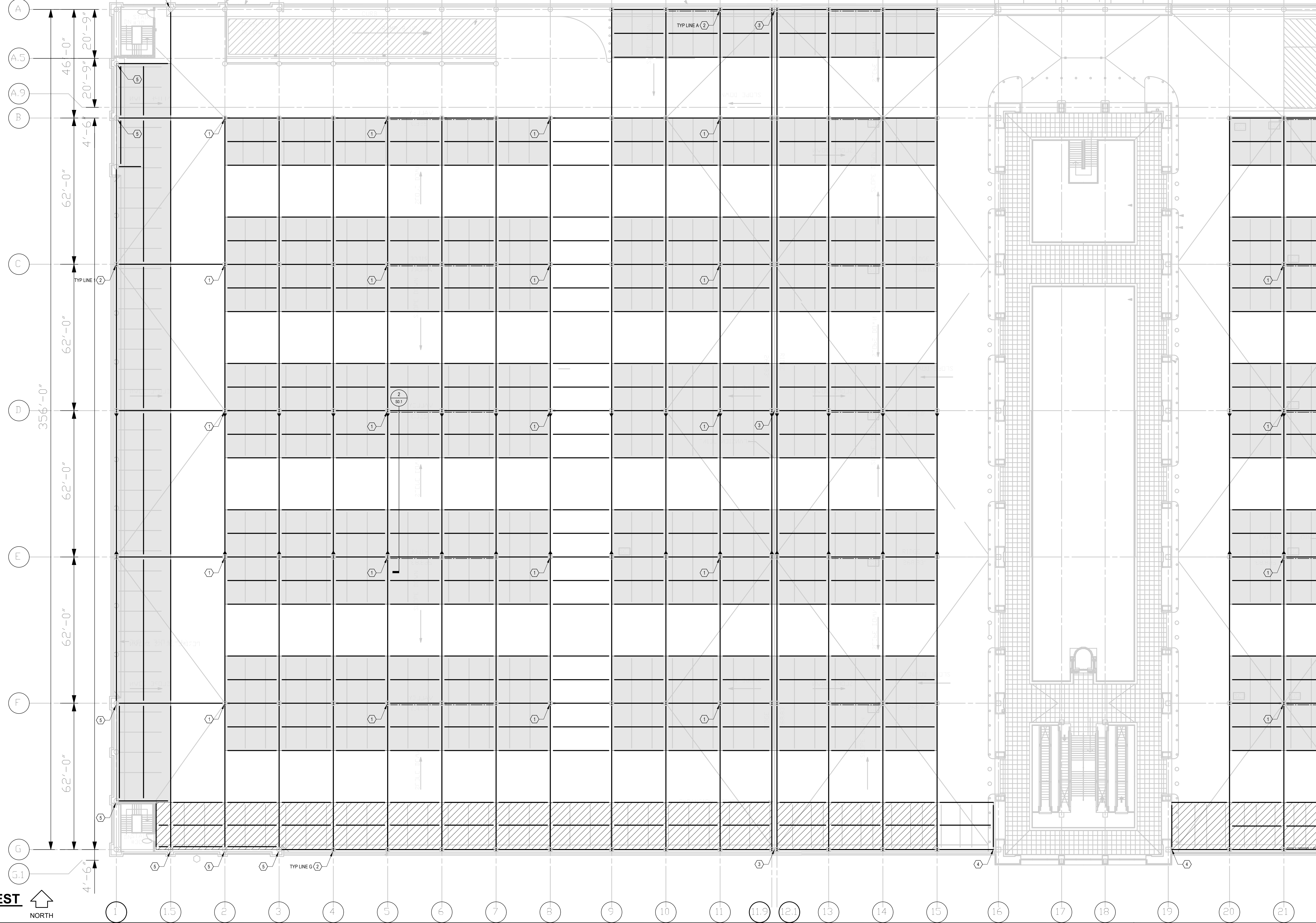


**S1.2**  
**OPTION 1**  
**EAST PLAN**



- LEGEND:**
- AREA TO HAVE SUNRAIN PROTECTION VIA SOLAR ARRAY OR SOLAR ARRAY OVER METAL DECK AND ROOFING
  - AREA TO HAVE SUNRAIN PROTECTION VIA METAL DECK AND ROOFING
  - PROPOSED COLUMN LOCATION. FINAL COLUMN LOCATIONS AND SIZES TO BE DETERMINED BY DESIGN-BUILDER
  - PROPOSED BEAM LOCATIONS. FINAL FRAMING LAYOUT AND MEMBER SIZES TO BE DETERMINED BY DESIGN-BUILDER
  - PROPOSED BRACING LOCATIONS. FINAL BRACING LOCATIONS AND MEMBER SIZES TO BE DETERMINED BY DESIGN-BUILDER
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- EXISTING LIGHT POLE AND CONCRETE PEDESTAL TO BE REMOVED DOWN TO SLAB. LIGHT POLES TO BE TURNED OVER TO AIRPORT.
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  - PROVIDE EXPANSION JOINT/SLIP CONNECTION BETWEEN NEW ROOF AND EXISTING ATRIUM/ROOF FRAMING.
  - EXISTING CONCRETE COLUMN (H).



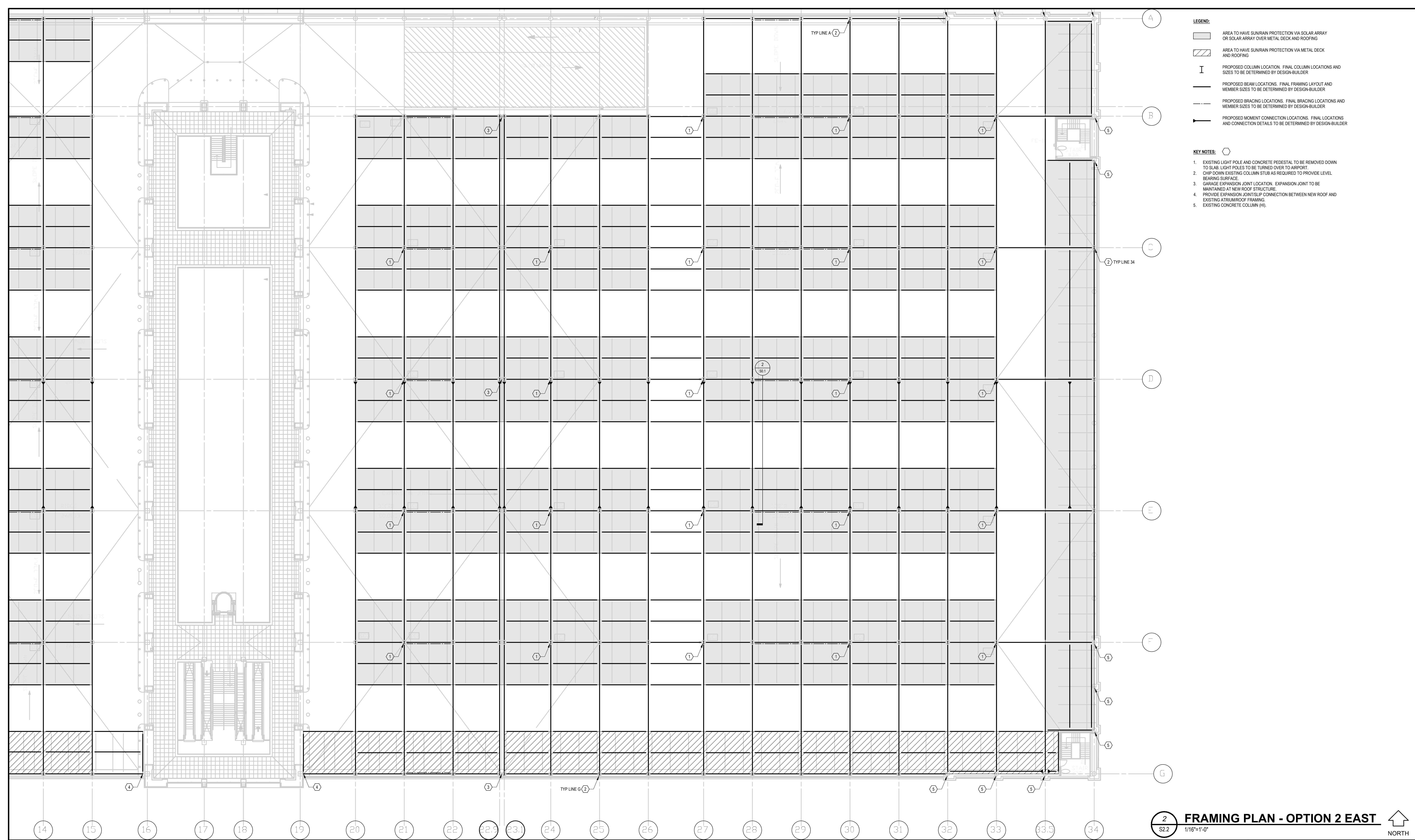
**FRAMING PLAN - OPTION 2 WEST**  
1/16"=1'-0"  
NORTH

Foth Infrastructure Solutions | CAE Soar | 31 March, 2025

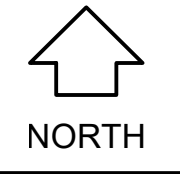
**S2.1**  
**OPTION 2**  
**WEST PLAN**





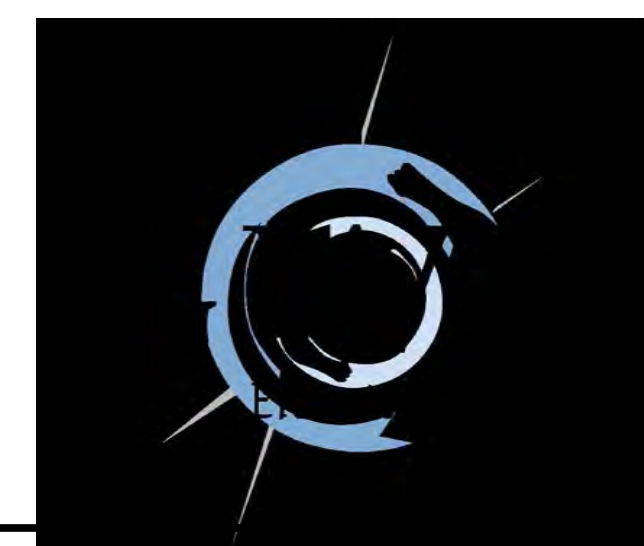


**2**  
S2.2 **FRAMING PLAN - OPTION 2 EAST**  
1/16"=1'-0"

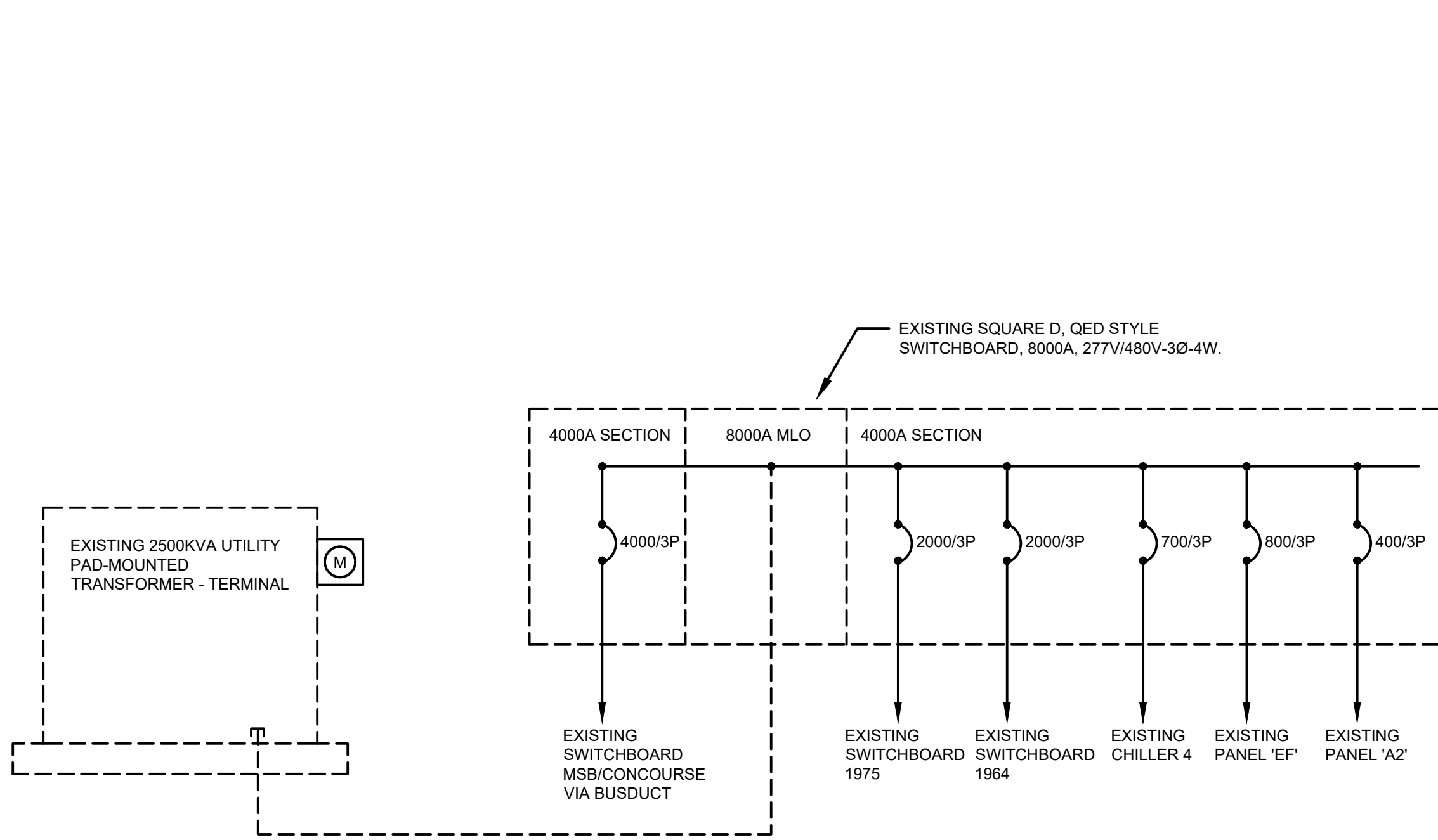


Foth Infrastructure Solutions | CAE Soar | 31 March, 2025

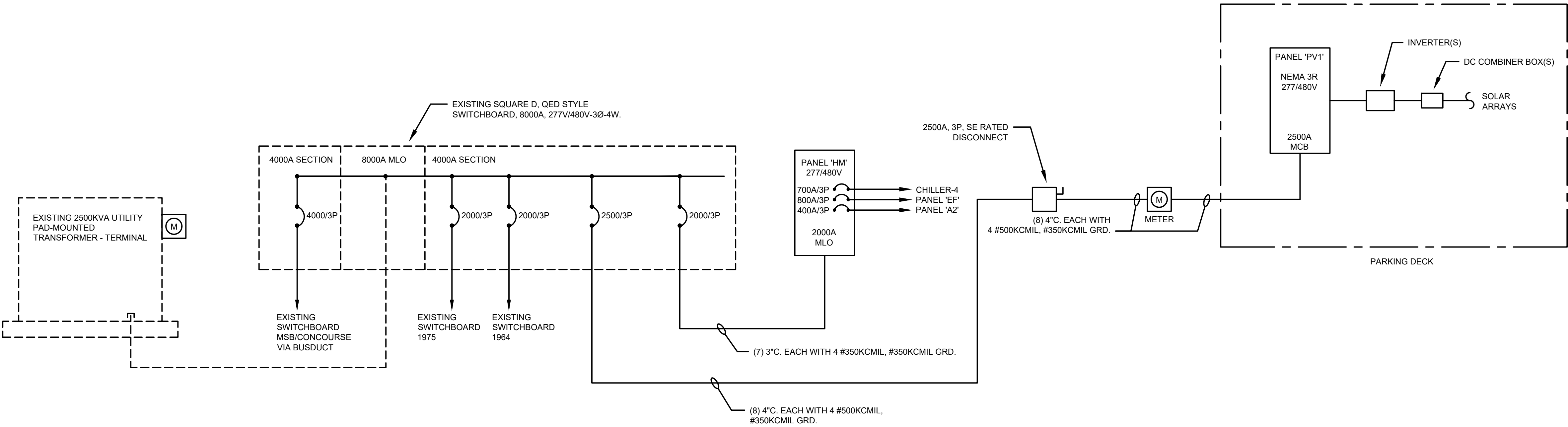
**S2.2**  
**OPTION 2**  
**EAST PLAN**



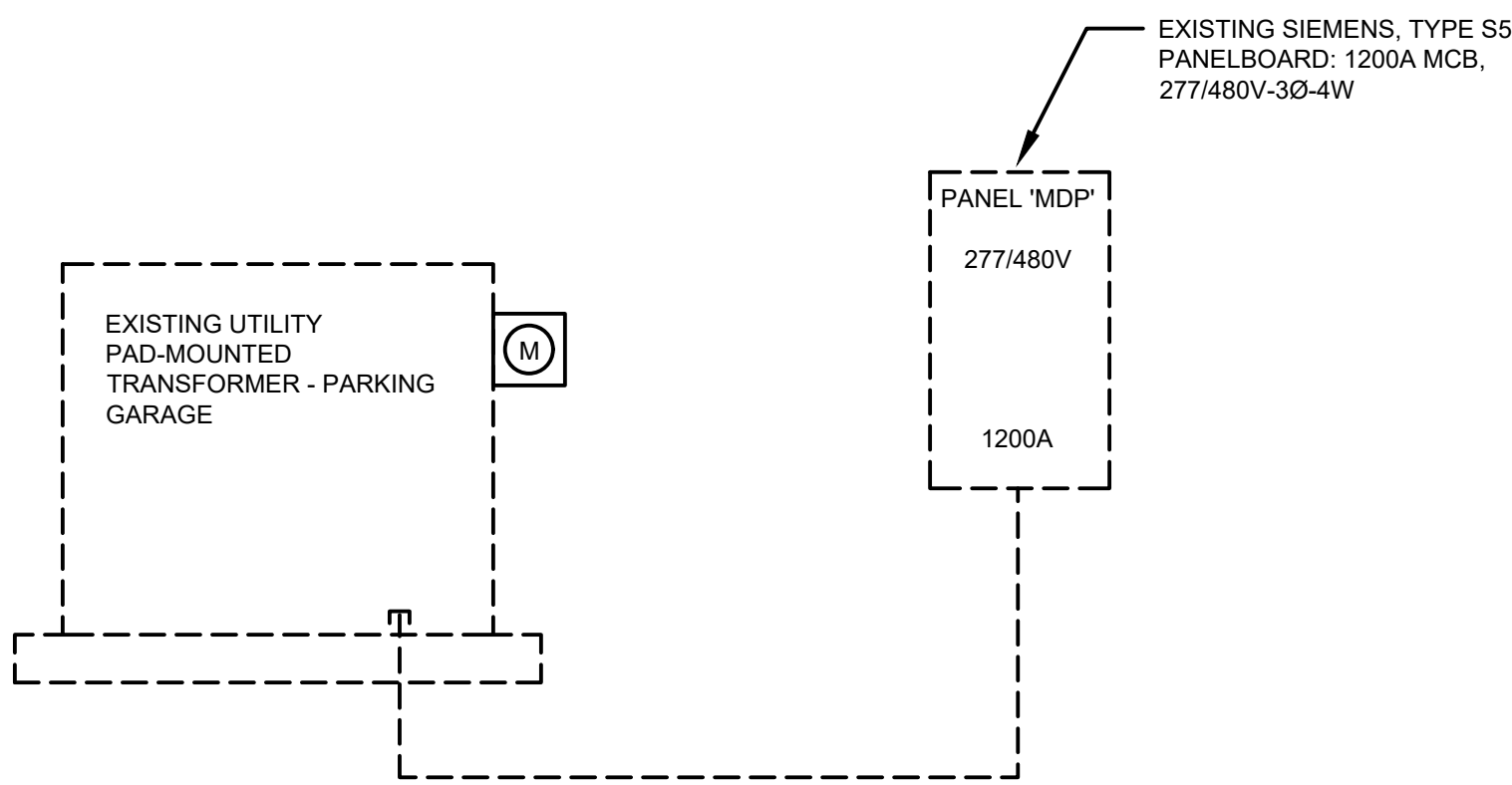




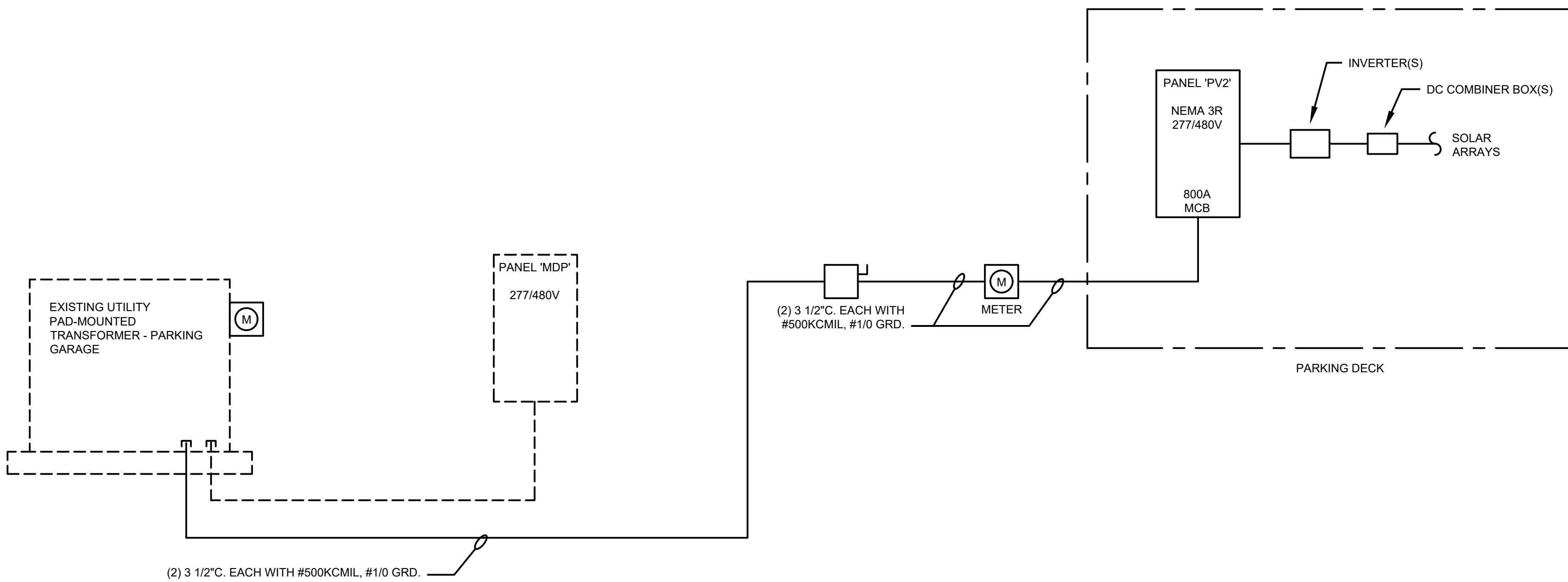
COLUMBIA METROPOLITAN AIRPORT (CAE) MAIN TERMINAL PARTIAL ONE LINE DIAGRAM - EXISTING CONDITIONS  
NO SCALE



COLUMBIA METROPOLITAN AIRPORT (CAE) MAIN TERMINAL PARTIAL ONE LINE DIAGRAM - PROPOSED PV SYSTEM CONFIGURATION  
NO SCALE



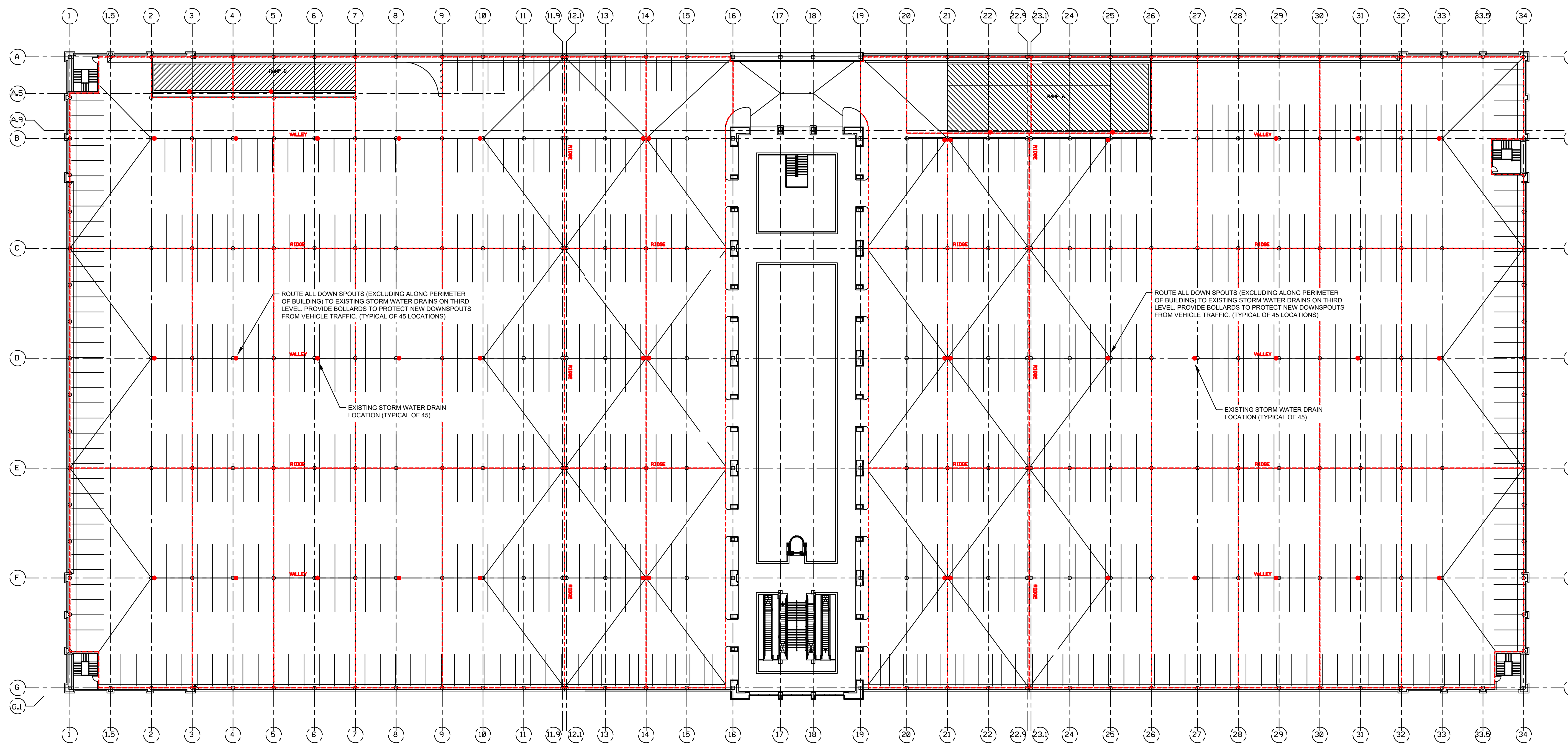
COLUMBIA METROPOLITAN AIRPORT (CAE) PARKING GARAGE PARTIAL ONE LINE DIAGRAM - EXISTING CONDITIONS  
NO SCALE



COLUMBIA METROPOLITAN AIRPORT (CAE) PARKING GARAGE PARTIAL ONE LINE DIAGRAM - PROPOSED PV SYSTEM  
NO SCALE

Client Name | Project Name | 01 January, 2000





THIRD FLOOR STORM DRAINAGE PLAN  
SCALE: 1" = 30'

| PLUMBING LEGEND                      |                               |
|--------------------------------------|-------------------------------|
| <span style="color: red;">●</span>   | EXISTING STORM DRAIN LOCATION |
| <span style="color: red;">---</span> | STORM DRAINAGE AREA           |

Columbia Metropolitan Airport Solar Array Canopy | 04/14/25

**COLUMBIA**  
METROPOLITAN AIRPORT

**Foth**

**LS3P**

**THP**

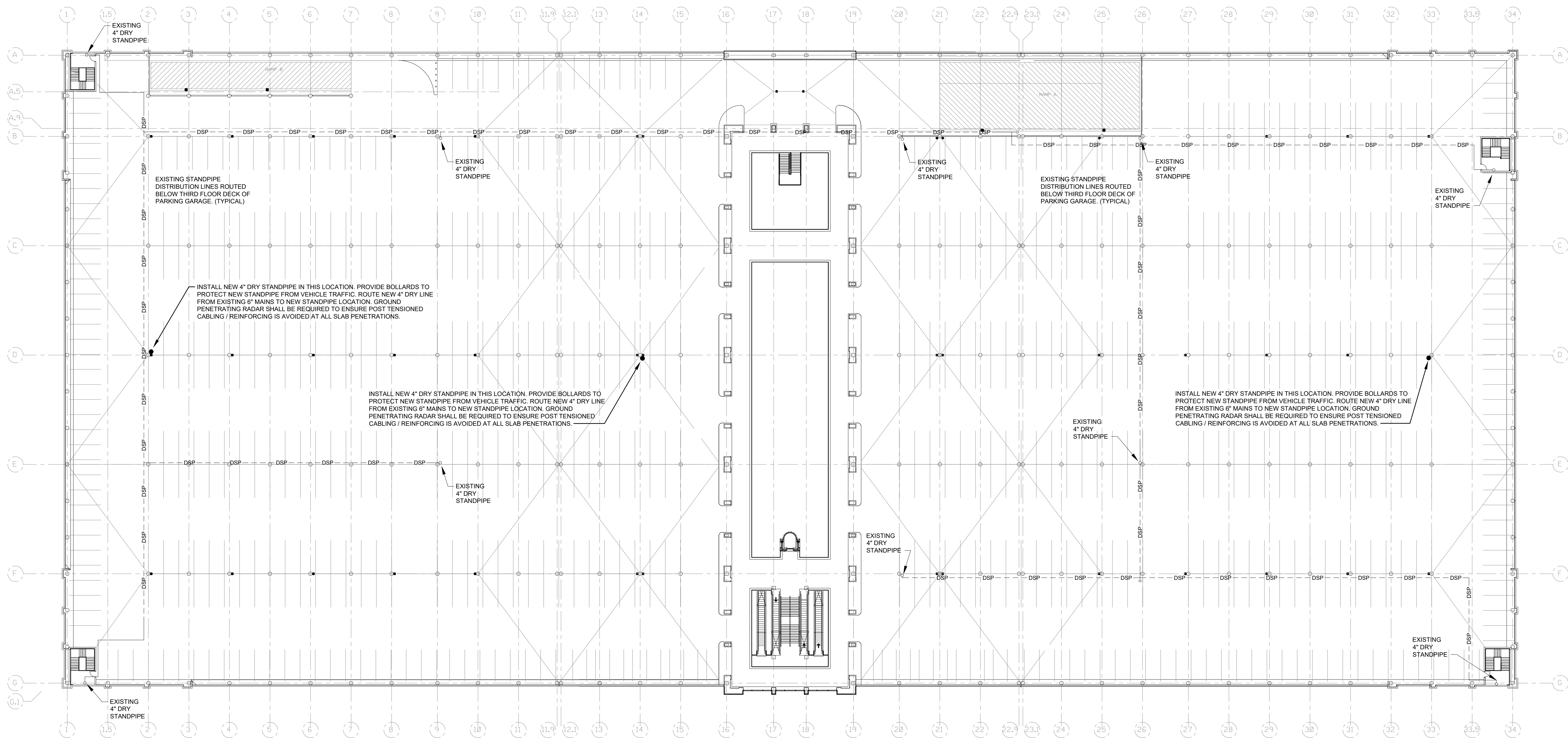
**MECA**  
Mechanical Engineering  
Consulting Associates, Inc.

**GWA**  
Electrical Engineers

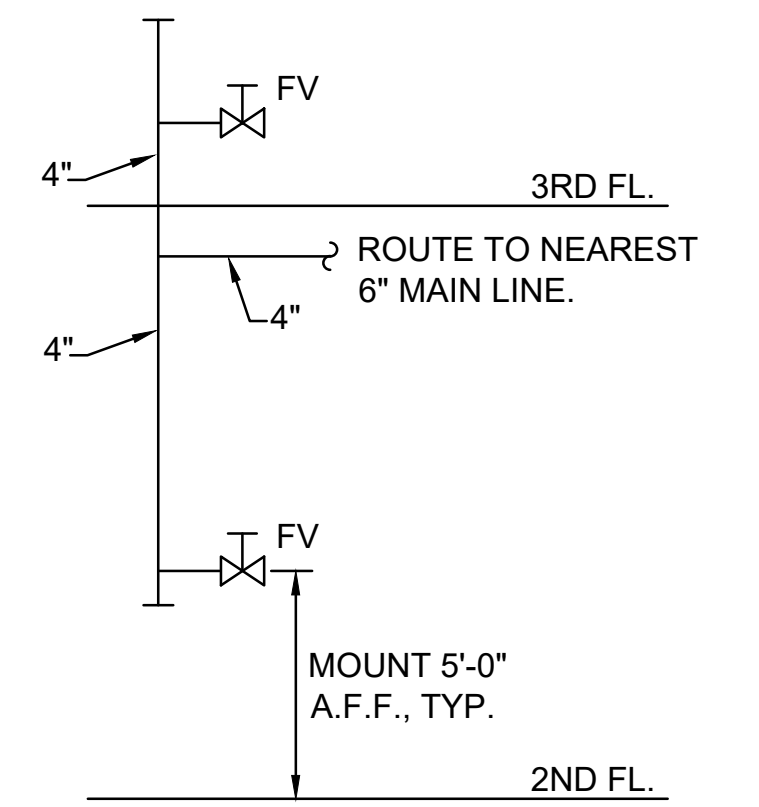


**P001**  
THIRD FLOOR  
STORM DRAINAGE  
PLAN





**THIRD FLOOR FIRE PROTECTION PLAN**  
SCALE: 1" = 30'



**STANDPIPE RISER DIAGRAMS**  
NOT TO SCALE

| FIRE PROTECTION LEGEND |   |
|------------------------|---|
|                        | DRY STANDPIPE FIRE LINE                           |
|                        | 2 1/2" FIRE DEPARTMENT VALVE WITH CAPS AND CHAINS |

Columbia Metropolitan Airport Solar Array Canopy | 04/14/25

**COLUMBIA**  
METROPOLITAN AIRPORT

**Foth**

**LS3P**

**THP**

**MECA**  
Mechanical Engineering  
Consulting Associates, Inc.

**GWA**  
Electrical Engineers

**SOLAR UNITED NATIONAL**

**FP001**  
**THIRD FLOOR FIRE PROTECTION PLAN AND DETAIL**





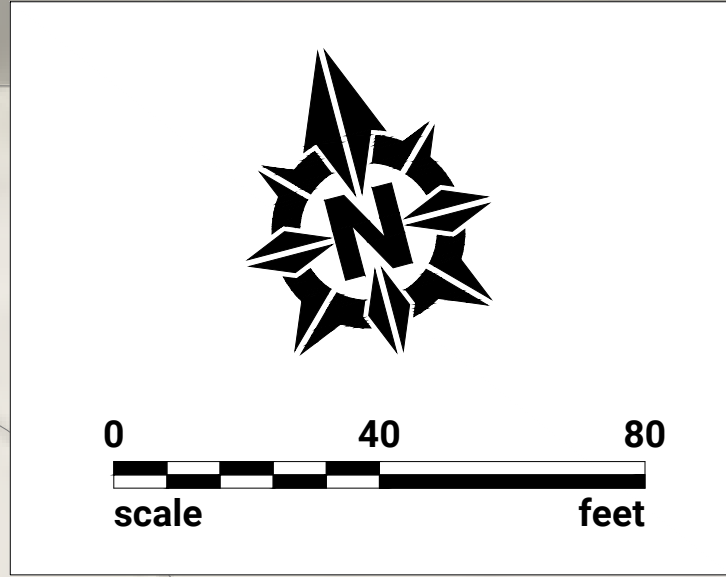




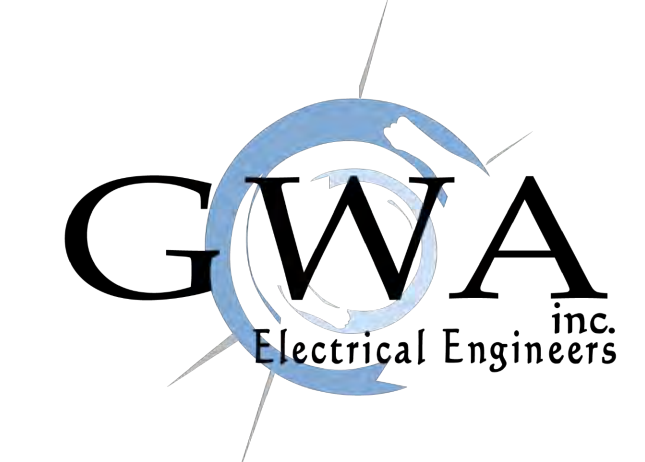
- NOTES
1.

CONTRACTOR RESPONSIBLE FOR ALL DEMOLITION, DISPOSAL AND RESTORATION OF PAVEMENTS & LANDSCAPING FOR THE CONSTRUCTION OF CONDUIT ROUTE FOR CONNECTION OF PARKING GARAGE SOLAR ARRAY TO EXISTING SWITCH GEAR
2.

SEE NARRATIVES FOR ADDITIONAL DETAILS FOR SYSTEM REQUIREMENTS



Foth Infrastructure Solutions | CAE Solar Array Canopy | 04 April, 2025



GC402  
Site Electric Plan







## **VIII. ATTACHMENTS**

Attachment A – BID FORM & BID SCHEDULES

Attachment B – CERTIFICATION

Attachment C – A201-2017 with RLAD EDITS

Attachment D –REQUIRED FEDERAL PROVISIONS

Attachment E – DAVIS BACON WAGE DETERMINATION



## ATTACHMENT A

### BID FORM

#### DESIGN-BUILD PARKING GARAGE PHOTOVOLTAIC MICROGRID SYSTEM

TO: The Richland Lexington Airport District  
3250 Airport Blvd, STE 10  
West Columbia, SC, 29170

The undersigned, in compliance with the request for bids for construction of the following Project:

#### PARKING GARAGE PHOTOVOLTAIC MICROGRID SYSTEM

hereby proposes to furnish all labor, permits, material, machinery, tools, supplies and equipment to faithfully perform all work required for construction of the Project in accordance with the project manual, project drawings and issued addenda.

#### ACKNOWLEDGEMENTS BY BIDDER:

- a. Bid Schedule: See attached bid schedule.
- b. By submittal of a bid, the BIDDER acknowledges and accepts that the quantities established by the OWNER are an approximate estimate of the quantities required to fully complete the Project and that the estimated quantities are principally intended to serve as a basis for evaluation of bids. The BIDDER further acknowledges and accepts that payment under this contract will be made only for actual quantities and that quantities will vary in accordance with the General Provisions subsection entitled "Alteration of Work and Quantities".
- c. The BIDDER acknowledges and accepts that the Bid Documents are comprised of the documents identified within the Instructions to BIDDERS. The BIDDER further acknowledges that each the individual documents that comprise the Bid Documents are complementary to one another and together establishes the complete terms, conditions and obligations of the successful BIDDER.
- d. As evidence of good faith in submitting this bid, the undersigned encloses a bid guaranty in the form of a certified check or bid bond in the amount of 5% of the bid price. The BIDDER acknowledges and accepts that refusal or failure to accept award and execute a contract within the terms and conditions established herein will result in forfeiture of the bid guaranty to the OWNER as a liquidated damage.
- e. The BIDDER acknowledges and accepts the OWNER'S right to reject any or all bids and to waive any minor informality in any Bid or solicitation procedure.
- f. The BIDDER acknowledges and accepts the OWNER'S right to hold all Bids for purposes of review and evaluation and not issue a notice-of-award for a period not to exceed **90 calendar days** from the stated date for receipt of bids.



- g. **It is the intent of the OWNER, after a period of review and evaluation, to award a contract to the responsible BIDDER that submits the lowest responsive bid. The successful BIDDER will be informed their bid has been accepted through the OWNER's issuance of Notice-of-Award. The Notice-of-Award shall not be construed as a binding agreement. The proper execution of contract agreement shall serve as the binding agreement. The OWNER may hold the awarded bid up to 90 calendar days from the date of receipt of bids before a contract is executed.**
- h. The undersigned agrees that upon written notice of award of contract, he or she will execute the contract and provide executed payment and performance bonds within fifteen (15) days from the notice-of-award. The undersigned accepts that failure to execute the contract and provide the required bonds within the stated timeframe shall result in forfeiture of the bid guaranty to the OWNER as a liquidated damage.
- i. Time of Performance: By submittal of this bid, the undersigned acknowledges and agrees to commence work within ten (10) calendar days of the date specified in the written "Notice-to-Proceed" as issued by the OWNER. The undersigned further agrees to complete the Project within the requirements described in the General Provisions, Supplementary Provisions, and Bid Documents.
- j. The undersigned acknowledges the Contractor shall pay non-penal amounts as liquidated damages to the OWNER for the time Project and Project Milestones remain incomplete beyond the contract time of performance, as detailed below and as further described in the General Provisions and the Bidding Documents. BIDDER further acknowledges that separate sums of liquidated damages will be assessed for each of the conditions described hereinbefore, and they shall be cumulative if multiple conditions have not been satisfied.
- k. The BIDDER acknowledges that the OWNER has established a contract Disadvantaged Business Enterprise goal of **0.00%** for this project.
- l. The BIDDER, by submission of a bid, acknowledges that award of this contract is subject to the provisions of the Davis-Bacon Act. The BIDDER accepts the requirement to pay prevailing wages for each classification and type of worker as established in the current wage rate determination as issued by the United States Department of Labor. The BIDDER further acknowledges and accepts their requirement to incorporate the provision to pay the established prevailing wages in every subcontract agreement entered into by the BIDDER under this project.
- m. Compliance Reports (41 CFR Part 60-1.7): Within 30 days after award of this contract, the Contractor/Subcontractor shall file a compliance report (Standard Form 100) if s/he has not submitted a complete compliance report within 12 months preceding the date of award. This report is required if the Contractor/Subcontractor meets all of the following conditions:
1. Contractors/Subcontractors are not exempt based on 41 CFR 60 1.5.
  2. Has 50 or more employees.
  3. Is a prime contractor or first tier subcontractor.
  4. There is a contract, subcontract, or purchase order amounting to \$50,000 or more



n. The undersigned acknowledges receipt of the following addenda:

|                 |             |
|-----------------|-------------|
| Addendum Number | Dated _____ |
| Addendum Number | Dated _____ |
| Addendum Number | Dated _____ |

## REPRESENTATIONS BY BIDDER

By submittal of a bid (bid), the BIDDER represents the following:

- a. The BIDDER has read and thoroughly examined the bid documents including all authorized addenda.
- b. The BIDDER has a complete understanding of the terms and conditions required for the satisfactory performance of project work.
- c. The BIDDER has fully informed themselves of the project site, the project site conditions, and the surrounding area.
- d. The BIDDER has familiarized themselves of the requirements of working on an operating airport and understands the conditions that may in any manner affect cost, progress or performance of the work
- e. The BIDDER has correlated their observations with that of the project documents.
- f. The BIDDER has found no errors, conflicts, ambiguities or omissions in the project documents, except as previously submitted in writing to the OWNER that would affect cost, progress or performance of the work.
- g. The BIDDER is familiar with all applicable Federal, State and local laws, rules and regulations pertaining to execution of the contract and the project work.
- h. The BIDDER has complied with all requirements of these instructions and the associated project documents.

## CERTIFICATIONS BY BIDDER

The undersigned hereby declares and certifies that the only parties interested in this bid are named herein and that this bid is made without collusion with any other person, firm or corporation. The undersigned further certifies that no member, officer, or agent of OWNER'S has direct or indirect financial interest in this bid.

- a. **Prohibition of Segregated Facilities:** (41 CFR Part 60; 2 CFR 200)
  1. The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.



2. “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.
3. The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

b. **Trade Restriction Certification:** (49 CFR Part 30)

By submission of an offer, the BIDDER certifies that with respect to this solicitation and any resultant contract, the BIDDER –

1. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
2. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
3. has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC § 1001.

The BIDDER must provide immediate written notice to the OWNER if the BIDDER learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR § 30.17, no contract shall be awarded to a BIDDER or subcontractor:

1. who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR; or
2. whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
3. who incorporates in the public works project any product of a foreign country on such USTR list.



Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The BIDDER agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the BIDDER has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the OWNER cancellation of the contract or subcontract for default at no cost to the OWNER or the FAA.

c. **Certification Regarding Debarment and Suspension:** 2 CFR Part 180, 2 CFR Part 1200, 2 CFR Part 200, DOT Order 4200.5 and EOs 12549 and 12689

By submitting a bid/proposal under this solicitation, the BIDDER certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

The successful BIDDER, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must confirm each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally-assisted project. The successful BIDDER will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of BIDDER Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

d. **Buy American / BABA Certification:** (Title 49 U.S.C. Chapter 501)

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list. A BIDDER must complete and submit the Buy American certification included herein with their bid or offer.



The OWNER will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

- e. **Prohibition of Certain Telecommunication and Video Surveillance Services or Equipment:** Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].
- f. **Tax Delinquency and Felony Convictions** (Section 8113 of Public Law 117-103):

The BIDDER must complete the following two certification statements. The BIDDER must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark

( ) in the space following the applicable response. The BIDDER agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

***Certifications (BIDDER must mark selections)***

1. The BIDDER represents that it is ( ) is not ( ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
2. The BIDDER represents that it is ( ) is not ( ) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

***Note***

If a BIDDER responds in the affirmative to either of the above representations, the contractor is ineligible to receive an award unless the Sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the OWNER about its tax liability or conviction to the OWNER, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

**Term Definitions**

***Felony conviction:*** Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

***Tax Delinquency:*** A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is



not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

g. **Certification Regarding Domestic Preferences for Procurement (2 CFR 200):**

The BIDDER certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the BIDDER has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

**ATTACHMENTS TO THIS BID**

The following documents are attached to and made a part of this Bid and are a condition of Bid responsiveness:

- ☐ Signed Bid Form
- ☐ Bid Schedule
- ☐ Acknowledgement of Addenda (if applicable)
- ☐ Utilization Statement Disadvantage Business Enterprise (DBE) and Letter of Intent
- ☐ Evidence of Good Faith Effort, if proposed DBE goal is not met.
- ☐ Identity of Subcontractors
- ☐ Buy American Certification

**ATTACHMENTS TO THIS BID IN SEPARATE ENVELOPE**

The following document is submitted in a separate envelope and made a part of this Bid:

- ☐ Bid Guarantee (Bid Bond) in the form set forth in the Bidding Documents.



**\*\*Include SC Contractor's License Number\*\***

**SIGNATURE OF BIDDER**

**IF AN INDIVIDUAL:**

Name: \_\_\_\_\_

By: \_\_\_\_\_

*(Signature of Individual)*

Doing Business as: \_\_\_\_\_

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

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

**IF A PARTNERSHIP:**

Partnership Name: \_\_\_\_\_

By: \_\_\_\_\_

*(Authorized Signature)*

*(Attach Evidence of Authority to sign as a Partnership)*

Name and Title: \_\_\_\_\_

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

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

**IF A CORPORATION:**

Corporation Name: \_\_\_\_\_

By: \_\_\_\_\_

*(Authorized Signature)*

*(Attach Evidence of Authority to sign)*

Name and Title: \_\_\_\_\_

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

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_

*(Authorized Signature)*

Name and Title: \_\_\_\_\_



**IF A JOINT VENTURE:** *(Attach copy of Joint Venture Agreement)*

Joint Venture Name: \_\_\_\_\_

By: \_\_\_\_\_

*(Authorized Signature)*

*(Attach Evidence of Authority to sign)*

Name and Title: \_\_\_\_\_

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

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Joint Venture Name: \_\_\_\_\_

By: \_\_\_\_\_

*(Authorized Signature)*

*(Attach Evidence of Authority to sign)*

Name and Title: \_\_\_\_\_

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

\_\_\_\_\_

Telephone Number: \_\_\_\_\_



## BID SCHEDULE #1

The undersigned, in compliance with the request for bids for construction of the following Project:

### Design-Build (DB) Parking Garage Photovoltaic Microgrid System

hereby proposes to furnish all labor, permits, material, machinery, tools, supplies and equipment to faithfully perform all work required for construction of the Project in accordance with the project manual, project drawings and issued Addenda within the specified time of performance for the following prices:

| ITEM NO. | ITEM   | UNIT | QUANTITY | UNIT PRICE | EXTENDED PRICE |
|----------|--|------|----------|------------|----------------|
| 1        | MOBILIZATION (SOLAR, AIP ELIGIBLE)   | LS   | 1        |            |                |
| 2        | PV PANELS, INVERTERS & RACKING (SOLAR, AIP ELIGIBLE)   | LS   | 1        |            |                |
| 3        | UTILITY RACEWAYS/SITE CORRIDOR, INTERCONNECT & SWITCH GEAR MODIFICATIONS (SOLAR, AIP ELIGIBLE) | LS   | 1        |            |                |
| 4        | STRUCTURE WITH DRAINAGE, LIGHTING, WAYFINDING, FIRE PROTECTION (SOLAR, AIP ELIGIBLE)           | LF   | 1        |            |                |

**TOTAL BID SCHEDULE #1 BID:** \$ \_\_\_\_\_  
(Numbers)

\_\_\_\_\_  
(Words)



## BID SCHEDULE #2

The undersigned, in compliance with the request for bids for construction of the following Project:

### Design-Build (DB) Parking Garage Photovoltaic Microgrid System

hereby proposes to furnish all labor, permits, material, machinery, tools, supplies and equipment to faithfully perform all work required for construction of the Project in accordance with the project manual, project drawings and issued Addenda within the specified time of performance for the following prices:

| ITEM NO. | ITEM   | UNIT | QUANTITY | UNIT PRICE | EXTENDED PRICE |
|----------|--|------|----------|------------|----------------|
| 1        | MOBILIZATION (PRORATED)  | LS   | 1        |            |                |
| 2        | PV PANELS, INVERTERS & RACKING (SOLAR, AIP ELIGIBLE)   | LS   | 1        |            |                |
| 3        | UTILITY RACEWAYS/SITE CORRIDOR, INTERCONNECT & SWITCH GEAR MODIFICATIONS (SOLAR, AIP ELIGIBLE) | LS   | 1        |            |                |
| 4        | STRUCTURE WITH DRAINAGE, LIGHTING, WAYFINDING, FIRE PROTECTION (SOLAR, AIP ELIGIBLE)           | LS   | 1        |            |                |
| 5        | ROOF SYSTEM (NON-SOLAR, AIP INELIGIBLE)  | LS   | 1        |            |                |
| 6        | STRUCTURE WITH DRAINAGE, LIGHTING, WAYFINDING, FIRE PROTECTION (NON-SOLAR, AIP INELIGIBLE)     | LS   | 1        |            |                |

**TOTAL BID SCHEDULE #2 BID:** \$ \_\_\_\_\_

(Numbers)

(Words)



### BID SCHEDULE #3

The undersigned, in compliance with the request for bids for construction of the following Project:

#### Design-Build (DB) Parking Garage Photovoltaic Microgrid System

hereby proposes to furnish all labor, permits, material, machinery, tools, supplies and equipment to faithfully perform all work required for construction of the Project in accordance with the project manual, project drawings and issued Addenda within the specified time of performance for the following prices:

| ITEM NO. | ITEM   | UNIT | QUANTITY | UNIT PRICE | EXTENDED PRICE |
|----------|--|------|----------|------------|----------------|
| 1        | MOBILIZATION (PRORATED)  | LS   | 1        |            |                |
| 2        | PV PANELS, INVERTERS & RACKING (SOLAR, AIP ELIGIBLE)   | LS   | 1        |            |                |
| 3        | UTILITY RACEWAYS/SITE CORRIDOR, INTERCONNECT & SWITCH GEAR MODIFICATIONS (SOLAR, AIP ELIGIBLE) | LS   | 1        |            |                |
| 4        | STRUCTURE WITH DRAINAGE, LIGHTING, WAYFINDING, FIRE PROTECTION (SOLAR, AIP ELIGIBLE)           | LF   | 1        |            |                |
| 5        | ROOF SYSTEM (NON-SOLAR, AIP INELIGIBLE)  | LS   | 1        |            |                |
| 6        | STRUCTURE WITH DRAINAGE, LIGHTING, WAYFINDING, FIRE PROTECTION (NON-SOLAR, AIP INELIGIBLE)     | LS   | 1        |            |                |

**TOTAL BID SCHEDULE #3 BID:** \$ \_\_\_\_\_

(Numbers)

(Words)



**UTILIZATION STATEMENT**  
**Disadvantaged Business Enterprise**

The undersigned BIDDER has satisfied the requirements of the bid specification in the following manner. *(Please mark the appropriate box)*

☐ The BIDDER is committed to a minimum of \_\_\_\_\_ DBE utilization on this contract.

The undersigned hereby further assures that the information included herein is true and correct, and that the DBE firm(s) listed herein have agreed to perform a commercially useful function in the work items noted for each firm. The undersigned further understands that no changes to this statement may be made without prior approval from the Civil Right Staff of the Federal Aviation Administration.

BIDDER's Firm Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**DBE UTILIZATION SUMMARY**

|                      | Contract Amount |          | DBE Amount | Contract Percentage |
|----------------------|-----------------|----------|------------|---------------------|
| DBE Prime Contractor | \$              | x 1.00 = | \$         | %                   |
| DBE Subcontractor    | \$              | x 1.00 = | \$         | %                   |
| DBE Supplier         | \$              | x 0.60 = | \$         | %                   |
| DBE Manufacturer     | \$              | x 1.00 = | \$         | %                   |
| Total Amount DBE     |                 |          | \$         | %                   |
| DBE Goal             |                 |          | \$         | %                   |

**Note:** If the total proposed DBE participation is less than the established DBE goal, BIDDER must provide written documentation of the good faith efforts as required by 49 CFR Part 26.



**LETTER OF INTENT**  
**Disadvantaged Business Enterprise**  
*(This page shall be submitted for each DBE firm)*

**BIDDER**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**DBE Firm**

DBE Firm \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**DBE Contact Person**

Name: \_\_\_\_\_  
Phone: \_\_\_\_\_

**DBE Certifying Agency:**

Name: \_\_\_\_\_  
Phone: \_\_\_\_\_

**Classification:**

☐ Prime Contractor      ☐ Subcontractor      ☐ Joint Venture  
☐ Manufacturer      ☐ Supplier

| Work item(s)<br>To be performed by<br>DBE | Description of Work Item | Quantity | Total |
|---|--------------------------|----------|-------|
|   |                          |          |       |
|   |                          |          |       |
|   |                          |          |       |
|   |                          |          |       |
|   |                          |          |       |

The BIDDER is committed to utilizing the above-named DBE firm for the work described above. The estimated participation is as follows:

DBE contract amount: \$\_\_\_\_\_ Percent of total contract: \_\_\_\_\_ %

**AFFIRMATION:**

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
(Signature) (Title)

**Note: In the event the BIDDER does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.**



## PROPOSAL ATTACHMENT: IDENTITY OF SUBCONTRACTORS

In all instances in which the BIDDER intends to assign, sublet, or subcontract any portion of the work, the BIDDER shall mark the appropriate box and provide the information requested below. If the BIDDER does not intend to utilize any subcontractors or assignees, the BIDDER shall so indicate by marking the appropriate box below. The BIDDER need not identify material suppliers or manufacturers who do not provide labor at the worksite to incorporate the material or manufactured goods into the improvement.

The BIDDER shall indicate the proposed use of subcontractors by completing the following:

- ☐ If the BIDDER does not intend to utilize any subcontractors or assignees, the BIDDER shall mark the box at the left.
- ☐ If the BIDDER intends to utilize subcontractors or assignees, the BIDDER shall mark the box at the left and report below the identity of each subcontractor or assignee, a description of the work to be done by each subcontractor or assignee, the amount of each subcontract or the value of the work to be assigned, and the subcontractor's or assignee's DBE or non-DBE status in the space provided below. The BIDDER certifies that these subcontractors or assignees, if acceptable to the Commission, will be utilized on this project as stated below.

[illegible]

- **BIDDER** may utilize another form, provided all information required above is submitted.



## BID BOND

**BIDDER** (Name and Address):

---

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**SURETY** (Name and Address):

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**OWNER** (Name and Address):

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**BID**

BID DUE DATE: \_\_\_\_\_

PROJECT (Brief Description Including Location):

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**BOND**

BOND NUMBER: \_\_\_\_\_

DATE (Not later than Bid due date): \_\_\_\_\_

PENAL SUM: \_\_\_\_\_

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(Words)

---

(Figures)

IN WITNESS WHEREOF, Surety and BIDDER, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

**BIDDER**

\_\_\_\_\_  
(Seal)

BIDDER's Name and Corporate Seal

By: \_\_\_\_\_  
Signature and Title

Attest: \_\_\_\_\_  
Signature and Title

\_\_\_\_\_  
(Seal)

Surety's Name and Corporate Seal

By: \_\_\_\_\_  
Signature and Title

Attest: \_\_\_\_\_  
Signature and Title

Note: (1) Above addresses are to be used for giving required notice.

(1) Any singular reference to BIDDER, Surety, OWNER or other party shall be considered plural where applicable.



1. BIDDER and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to OWNER upon default of BIDDER the penal sum set forth on the face of this Bond.
2. Default of BIDDER shall occur upon the failure of BIDDER to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by OWNER) the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
  - 3.1 OWNER accepts BIDDER's Bid and BIDDER delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by OWNER) the executed Agreement required by the Bidding Documents and any performance and payment Bonds required by the Bidding Documents, or
  - 3.2 All Bids are rejected by OWNER, or
  - 3.3 OWNER fails to issue a Notice of Award to BIDDER within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by BIDDER and, if applicable, consented to by Surety when required by paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default by BIDDER and within 30 Calendar Days after receipt by BIDDER and Surety of written notice of default from OWNER, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by OWNER and BIDDER, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 90 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 Calendar Days after the notice of default required in paragraph 4 above is received by BIDDER and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state of South Carolina.
8. Notices required hereunder shall be in writing and sent to BIDDER and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power or Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.



10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.
11. The term “Bid” as used herein includes a Bid, offer or proposal as applicable.



## ATTACHMENT B

### CERTIFICATION

I, the undersigned, acknowledge that I have: carefully read, examined and understand the **RFP for the Design-Build Parking Garage Photovoltaic Microgrid System** opportunity; guarantee our qualification meets or exceeds specifications contained in this RFP; and warrant that if the qualification is accepted, we will contract with the Columbia Metropolitan Airport in the form of an Agreement or Contract and comply with the requirements of the RFP and agreement or contract. Any exceptions are described in detail and all requested information has been submitted as requested.

I also affirm that I am duly authorized to sign this qualification; that this company, corporation, firm partnership or individual has not prepared this qualification in collusion with any other Bidder and that the contents of this qualification including any terms or conditions of said qualification have not been communicated by the undersigned nor any employee or agent to any other Bidder or to any other person(s) engaged in this type of business prior to the official opening of the qualification. I declare under penalty of perjury under the laws of the State of South Carolina that the foregoing is correct.

---

(Signature)

---

(Printed name)

---

(Title)

---

(Date)



# DRAFT AIA® Document A201® – 2017

## General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

<< >>  
<< >>

THE OWNER:

(Name, legal status and address)

<< >>< >>  
<< >>

THE ARCHITECT:

(Name, legal status and address)

<< >>< >>  
<< >>

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### ADDITIONS AND DELETIONS:

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

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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**ARTICLE 1 GENERAL PROVISIONS****§ 1.1 Basic Definitions****§ 1.1.1 The Contract Documents**

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

**§ 1.1.2 The Contract**

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

**§ 1.1.3 The Work**

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

**§ 1.1.4 The Project**

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

**§ 1.1.5 The Drawings**

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

**§ 1.1.6 The Specifications**

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

**§ 1.1.7 Instruments of Service**

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

**§ 1.1.8 Initial Decision Maker**

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

**§ 1.1.9 Product**

The term "product" includes materials, systems and equipment.

**§ 1.1.10 Furnish**

The term "furnish" means to supply and deliver to the Project site, ready for unloading, unpacking, assembly, erection, placement or similar requirements.



**§ 1.1.11 Install**

The term "install" means to unload, unpack, assemble, erect, place, finish, protect, adjust, and clean, or similar requirements.

**§ 1.1.12 Provide**

The term "provide" means to furnish and install.

**§ 1.1.13 Knowledge**

The terms "knowledge", "recognize" and "discover", their respective derivatives, and similar terms in the Contract Documents, as used in reference to the Contractor, shall be interpreted to mean that which the Contractor knows, recognizes or discovers in exercising the care, skill and diligence required by the Contract Documents. Analogously, the expression "reasonably inferable" and similar terms in the Contract Documents shall be interpreted to mean reasonably inferable by a contractor familiar with the Project and exercising the care, skill and diligence required of the Contractor by the Contract Documents.

**§ 1.2 Correlation and Intent of the Contract Documents**

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

**§ 1.2.1.1** The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

**§ 1.2.2** Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

**§ 1.2.3** Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

**§ 1.2.3.1** Whenever a product is specified in accordance with a Federal Specification, an ASJM Standard, an American National Standards Institute Specification, or other Association Standard, the Contractor shall present an affidavit from the manufacturer when requested by the Owner or the Architect certifying that the product complies with the particular standard or specification. When requested by the Owner or the Architect or otherwise required by the Contract Documents, support test data shall be submitted to substantiate compliance.

**§ 1.3 Capitalization**

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

**§ 1.4 Interpretation**

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

**§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service**

**§ 1.5.1** The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.



§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.5.3 Upon execution of the Agreement, the Contractor grants to the Owner a fully-paid up, royalty free, perpetual and nonexclusive license to use the Contractor's and Contractor's Subcontractors' and consultants' representations, in any medium of expression now known or later developed, of the tangible and intangible creative work created, prepared or issued by the Contractor or its Subcontractors or consultants, for purposes of constructing, using, maintaining, altering and adding to the Project, including Shop Drawings, design drawings and specifications and electronic data for design-build systems delegated to the Contractor in the Contract Documents. The Contractor shall obtain similar nonexclusive licenses from the Contractor's Subcontractors and consultants consistent with this Section. The license granted under this Section permits the Owner to authorize contractors, consultants and material and equipment suppliers, to reproduce applicable portions of such work product for use in performing services or construction for the Project.

## § 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

## § 1.7 Digital Data Use and Transmission

The parties shall agree upon written protocols governing the transmission and use of, and reliance on, Instruments of Service or any other information or documentation in digital form.

## § 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to written protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## ARTICLE 2 OWNER

### § 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

Notwithstanding anything in the Contract Documents to the contrary, for any decision, approval or consent of the Owner to be binding against the Owner it must be in writing and for any Modification that changes the Contract Sum or Contract Time to be valid it must be signed by either the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

### § 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Intentionally deleted.



§ 2.2.2 Intentionally deleted.

§ 2.2.3 Intentionally deleted.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as “confidential,” the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose “confidential” information, after seven (7) days’ notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose “confidential” information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

**§ 2.3 Information and Services Required of the Owner**

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 Intentionally deleted.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the Contractor’s performance of the Work with reasonable promptness after receiving the Contractor’s written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

**§ 2.4 Owner’s Right to Stop the Work**

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, and any delay resulting from such work stoppage shall not extend the required dates of Substantial or Final Completion. Nothing herein shall be deemed to limit the Owner’s rights with respect to termination as set out in Article 14 herein.

**§ 2.5 Owner’s Right to Carry Out the Work**

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner’s expenses and compensation for the Architect’s additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.



**§ 2.6 Rapid Response to Emergencies**

If the Contractor neglects to prosecute the Work properly or to perform any provision of the Contract Documents, or does, or omits to do, anything, whereby the safety or proper construction may be endangered or whereby damage or injury may result to person or property as a result of an emergency, then the Owner, after twenty-four (24) hours' written notice to the Contractor, may, but shall not be obligated to, without prejudice to any other right or remedy of the Owner, take such action as the Owner deems necessary or desirable to endeavor to correct such condition, and may deduct the cost thereof from the amounts then due or thereafter due the Contractor. No action taken by the Owner pursuant to this Section 2.6 shall affect or diminish any of the Owner's other rights or remedies under the Agreement, at law or in equity, nor shall it relieve the Contractor from any consequences or liabilities arising from its acts or omissions.

**ARTICLE 3 CONTRACTOR****§ 3.1 General**

**§ 3.1.1** The Contractor (the terms "Contractor" and "Construction Manager" are intended to be interchangeable in the Agreement and these General Conditions of the Contract) is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The Contractor may from time to time change its designated representative with ten (10) days' prior written notice to the Owner. The term "Contractor" means the Contractor or the Contractor's authorized representative.

**§ 3.1.2** The Contractor shall perform the Work in accordance with the Contract Documents, and also in accordance with approved submittals as provided in and subject to Section 3.12 below.

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

**§ 3.1.4** The Contractor shall coordinate and hold weekly jobsite meetings with the Architect, the Owner and representatives of such Subcontractors and suppliers as the Contractor or the Owner may deem advisable, for the purpose of: (a) reviewing status of the Work, (b) the progress of the Work as compared to the most recent construction schedule, (c) responses to submittals and requests for information, (d) proposed and pending Change Orders and Construction Change Directives, (e) Applications for Payment, (f) and other items relevant to the Project. The Contractor shall prepare an agenda for each such meeting and deliver the agenda at least three (3) business days in advance of the meeting and, after the meeting, shall prepare minutes of the meeting and deliver such minutes to the Owner and the Architect with reasonable promptness after the meeting. Further, the Contractor shall send a representative, with full authority to act on behalf of and bind the Contractor, to the foregoing weekly and to such other meetings and conferences relating to any Work as may be requested from time to time by the Owner.

**§ 3.2 Review of Contract Documents and Field Conditions by Contractor**

**§ 3.2.1** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents, and evaluated and satisfied itself as to the condition and limitations under which the Work is to be performed including: (a) the location, condition, layout and nature of the Project site and surrounding areas, including conditions bearing upon ingress to and egress from the Project site, delivery, handling and storage of materials, disposal of waste, availability of water and electric power, and the character of equipment and facilities needed prior to and during the execution of the Work; (b) generally prevailing climatic conditions, (c) anticipated labor supply and costs, (d) availability and cost of materials, tools and equipment, and (e) all other matters which can in any way affect the Work or the cost thereof under this Contract. The Contractor shall locate prior to performing any Work all publicly known utility lines, telephone company lines and cables, sewer lines, water pipes, gas lines, electrical lines, and shall perform the Work in such a manner so as to avoid damaging any such lines, cables, and pipes. The Owner shall not be required to make any adjustment in either the Contract Sum or Contract Time in connection with any failure by the Contractor or any Subcontractor to comply with the requirements of this Section 3.2.1.



§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work: (a) carefully study and compare the various Contract Documents relative to that portion of the Work with the other Contract Documents and with information provided or otherwise reasonably available to the Contractor, including information available to or discovered by the Contractor in the course of overseeing or performing improvements to the Project site under separate agreement, (b) take field measurements of any existing conditions related to that portion of the Work, the including existing structures, (c) confirm the accuracy of all grades, elevations, dimensions, and locations given on any Drawings and Specifications, and (d) in all cases of interconnection of its Work with existing or other work, verify at the site all dimensions relating to such existing or other work. Any errors due to the Contractor's failure to so verify such grades, elevations, dimensions, or locations shall be promptly rectified by the Contractor without additional cost to the Owner. Further, figures on Drawings take precedence over measurements by scale, and scaling is done at the Contractor's own risk. The Contractor shall promptly notify the Owner and Architect in writing of any errors, inconsistencies or omissions, including omissions from the Drawings and Specifications of figures that are necessary to a clear understanding of the Work, that are discovered by or made known to the Contractor as a request for information in such form as the Owner or Architect may require. If the Contractor discovers (or fails to discover because of the Contractor's inattention to, or willful disregard of, the Contract Documents) any errors, inconsistencies, omissions, or discrepancies in the Contract Documents and proceeds with ordering of materials or construction of the Work without obtaining necessary clarification or instruction from the Architect and Owner, the Contractor shall assume full responsibility for such performance and shall bear all costs of correcting and resulting errors, inconsistencies, omissions, or discrepancies in the Work without adjustment of the Contract Sum or the Contract Time.

§ 3.2.2.2 The Contractor shall be responsible for laying out the site Work, shall protect and preserve reference points and property monuments, and shall make no changes or relocations without the prior written approval of the Owner and the Architect. The Contractor shall report to the Owner and the Architect whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

§ 3.2.2.3 All grade lines, levels and bench marks shall be established and maintained by the Contractor. The Contractor shall establish bench marks in no less than two widely separated locations. Bench marks established by others shall be verified and may be used for the Work but shall be maintained in correct position, and if moved or damaged, shall be replaced by a registered civil engineer or land surveyor at the expense of the Contractor. The Contractor shall submit certification by civil engineer for established building corners and finish floor elevations prior to commencing placement of the slab on grade.

§ 3.2.2.4 The Contractor shall be responsible for assuring that fill on the Site shall consist of well to moderately-well graded soils consistent with the Drawings and Specifications and acceptable to the Architect, consisting of sands, silts, non-plastic clays and gravel and shall be free from detrimental quantities of debris, muck, peat, roots, grass, leaves, humus, sewage and other organic material, clods, lumps, balls of clay, rocks, trees, stumps, branches, twigs, limbs, trash, refuse, development debris, non-plastic soils and frozen materials (collectively, "Unsuitable Materials") in accordance with the Architect's instructions. The Contractor shall remove all Unsuitable Materials and deposit them in areas specified by the Owner. No Unsuitable Material shall be located within the boundary of a building pad or on pond banks that abut or are adjacent to a building pad. The Contractor shall compact all fill areas within the Project site as necessary in order to comply with structural requirements set forth in the Drawings and Specifications. The Contractor shall abide by recommendations in a Geotechnical Report unless otherwise specified in the civil Drawings for the Project or instructed in writing by the Architect.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7,



as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.2.5 Notwithstanding anything herein to the contrary, the Contractor shall be responsible for the satisfactory and complete execution of the Work described in the Contract Documents. By executing the Contract, the Contractor shall be deemed to have represented that it has carefully examined all Drawings and Specifications for the Work to be performed, that it has made investigations essential to the construction methods for the Project, and that it has the experience and necessary personnel, equipment, and material at its disposal to complete the Work in a good workmanlike manner in accordance with the Contract Documents without defects in materials or workmanship. The Owner and the Contractor acknowledge that questions may arise concerning the level and scope of performance required under the Contract Documents. The Owner and the Contractor will in good faith attempt to resolve such conflicts and uncertainties in a manner that is consistent with the design intent of the Contract Documents.

### **§ 3.3 Supervision and Construction Procedures**

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.3.4 The Contractor shall require that all material suppliers and Subcontractors, their agents and employees, adhere to the Contract Documents, and that they order materials on time, taking into account the current market and delivery conditions and that they provide materials on time. The Contractor shall require all Subcontractors have a competent supervisor assigned to the Project and who shall be on site whenever the Subcontractor's work is being performed. The Contractor shall coordinate its Work with that of all others performing work for the Project, including deliveries, storage, installations and construction utilities. The Contractor shall be responsible for the space requirements, locations and routing of its equipment.

§ 3.3.5 The Contractor shall prepare and maintain daily logs recording the date, weather conditions, deliveries received, Subcontractors on site, general description of work accomplished, problems or conflicts in the field, and other important details. Said logs shall be maintained electronically in an orderly manner and available to the Owner, the Architect, and the Owner's representatives for review at any time. The Contractor shall submit the format of such daily log to the Owner for approval prior to commencement of the Work.

§ 3.3.6 Upon Contractor's receipt of purchased materials, the Contractor shall promptly notify the Owner in writing of any damage or defects in the purchased materials.

§ 3.3.7 All Work shall be executed in a neat, skillful workmanlike manner in accordance with the best recognized trade practices.



### § 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive. If the Contractor desires to submit or submits an alternate product or method in lieu of what has been specified in the Contract Documents, subsections 3.4.2.1 and 3.4.2.2 apply.

§ 3.4.2.1 The Contractor must submit to the Architect and the Owner (a) a full explanation of the proposed substitution and submittal of all supporting data including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation of the substitution; (b) a written explanation of the reasons the substitution is advantageous and necessary, including the benefits to the Owner and the Work in the event the substitution is acceptable; (c) the adjustment, if any, in the Contract Sum, in the event the substitution is acceptable; (d) the adjustment, if any, in the time of completion of the Work and the construction schedule in the event the substitution is acceptable, and (e) an affidavit stating that the proposed substitution conforms and meets all requirements of the pertinent Specifications and the requirements shown on the Drawings, and the Contractor accepts the warranty and correction obligations in connection with the proposed substitution as if originally specified by the Architect. Proposals for substitutions shall be submitted in triplicate to the Architect and Owner in sufficient time to allow them no less than ten (10) business days for review. No substitutions will be considered or allowed without the Contractor's submittal of complete substantiating data and information as stated herein.

§ 3.4.2.2 In addition to and without limitation of the requirements of subsection 3.4.2.1, by making requests for substitutions, the Contractor: (a) represents that it has investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified; (b) represents that it will provide the same or better warranty for the substitution as it would have provided for the product specified and the manufacturer will provide the same or better warranty for the substituted product; (c) certifies that the cost data presented is complete and includes all related costs for the substituted product and for Work that must be changed as a result of the substitution, except for the Architect's redesign costs, and waives all claims for additional costs related to the substitution that subsequently become apparent; and (d) shall coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

### § 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4. Further, the Contractor hereby assigns to the Owner, on a non-exclusive basis, all third party warranties pertaining to the Work and the materials and equipment incorporated therein that are not issued in the name of the Owner, including warranties of all Subcontractors and suppliers, and, upon completion of the Work, as a condition to final payment, the Contractor shall deliver to the Owner all such warranty documents. The Contractor shall perform the Work in such manner so as to preserve all such warranties. All warranty periods shall commence as of the date of



Substantial Completion unless otherwise provided in the Certificate of Substantial Completion (as provided in Section 9.8.4). All manufacturer warranties shall be for a minimum of one (1) year, or as identified in the warranty documents.

**§ 3.5.3** The Contractor's warranties given herein are not in derogation of such longer warranties as may be provided by the Contractor's Subcontractors, suppliers and the manufacturers of equipment and materials incorporated into the Project. Further, the Contractor's warranties will not be affected or limited by the terms of any manufacturer's warranty that has lesser terms or otherwise. The Contractor is responsible for ensuring that all warranties and guarantees required by the Contract Documents for materials, systems, equipment and work provided to and incorporated into the Work shall be issued in the name of and for the benefit of the Owner. The Contractor shall perform the Work in such a manner so as to preserve any and all such warranties. The Contractor shall assist the Owner without charge in asserting manufacturer and other third party warranty claims.

**§ 3.5.4** The Contractor is responsible for any Subcontractor's nonperformance of warranty Work. The refusal of a Subcontractor or supplier to correct defective Work for which it is responsible will not excuse the Contractor from performing under the Contractor's warranty.

**§ 3.5.5** As a condition precedent to final payment under the Contract, the Contractor shall deliver to the Owner one (1) bound volume of all guarantees and warranties on material furnished by all manufacturers and suppliers to the Contractor and its Subcontractors, with duly-executed instruments properly assigning the guarantees and warranties to the Owner. The guarantees and warranties shall be grouped together by trade and properly indexed. The Contractor shall obtain from manufacturers and suppliers, the guarantees and warranties according to the Contract terms and upon the optimum terms and longest periods reasonably obtainable. The documentation must also clearly describe proper operational and maintenance activities required to sustain said warranties.

### **§ 3.6 Taxes**

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect, including all taxes, withholdings, contributions and/or premiums payable in respect of its employees or on its operations, including under workers' compensation laws, unemployment compensation laws, the Federal Social Security Act, health and welfare benefit plans, gross business taxes, sales and use taxes and any other taxes, contributions and/or premiums which are payable by the employees.

### **§ 3.7 Permits, Fees, Notices and Compliance with Laws**

**§ 3.7.1** Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

**§ 3.7.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work. shall make copies of such notices available to the Owner and its representatives, and shall pay all fines, penalties and interest levied as a result of such Work. Without limitation of the foregoing, the Contractor shall fully comply with and remain in full compliance with the applicable requirements of the Immigration and Control Act of 1986 and applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws (originally enacted as Section 3 of the South Carolina Illegal Immigration Reform Act, 2008 S.C. Act No. 280) (hereinafter "the Act"), including all required employment and identity verification procedures and record keeping requirements. Further, the Contractor agrees to provide upon request any documentation required to establish either: (a) the applicability of the Act to Contractor and any subcontractors or sub-subcontractors; or (b) the compliance with the Act by Contractor and any subcontractor or sub-subcontractor. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." Contractor agrees to include in any contracts with its subcontractors language requiring the subcontractors to (a) comply with the applicable requirements of the Act, and (b) include in any contracts with the sub-subcontractors language requiring the sub-subcontractor to comply with the applicable requirements of the Act. In the event any contractor, subcontractor and/or sub-subcontractor is found not to be in compliance with the Act, the Contractor agrees to fully indemnify the



Owner for any loss suffered by the Owner as a result of such contractor, Subcontractor or Sub-subcontractor's failure to comply with the Act.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction, which costs shall not entitle the Contractor to adjustment of the Contract Sum or Contract Time.

#### § 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than five (5) business days after first observance of the conditions. The Owner and/or Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15. If the Contractor fails to perform the obligations of Section 3.7.4, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. Notwithstanding the foregoing or any other provision of the Contract Documents, the Contractor assumes full responsibility for the condition of the Project site based on having performed work on and around the site under a separate agreement for purposes that include preparation of the site for the Work of this Contract, and hereby expressly waives and disclaims any right or claim to adjustment of the Contract Sum or Contract Time by virtue of conditions at the site that might otherwise be deemed concealed or unknown conditions.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Section 7.5.

#### § 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection. Only items clearly specified as "allowances" in the Contract Documents shall be deemed allowances for purposes of this Section 3.8. For the avoidance of doubt, allowances shall be stated in such detail as required by the Owner to show how or for what the allowance amounts are designated. Further, allowances shall be shown as separate line items in the schedule of values and shall not be included in other Contract Sum line items.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.



§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness after the Contractor notifies the Owner of the need to make a selection.

§ 3.8.4 The Contractor shall submit a written proposal to the Owner of the costs associated with an allowance before incurring any such costs. Under no circumstances shall the Contractor incur any costs related to an allowance on behalf of the Owner without the prior written authorization of the Owner.

### § 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.9.4 If, in the reasonable opinion of the Owner, the Contractor's superintendent, any other personnel of the Contractor or Subcontractors, or any laborers by whomever employed, are not qualified to supervise or perform work, or do not conduct themselves in a proper manner, or are interfering with the operations of any facility on or adjacent to the site of the Work, the Contractor shall cause such persons(s) to be replaced with qualified personnel within seven (7) days upon written notice from the Owner, without any additional cost to the Owner and without extension of the Contract Time. Neither the Owner's rights herein, nor the Owner's exercise or failure to exercise such rights, shall relieve the Contractor of the obligations to select, assign, and supervise competent and qualified personnel or otherwise make the Owner responsible for original or replacement personnel.

### § 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project. The Contractor's construction schedule, including all updates thereto, shall include all significant activities required to complete the Work, including all field tasks, significant material deliveries, other off-site constraints such as permits, inspections, approvals, and milestones for start dates, completion dates and availability dates, and other activities the Contractor, the Owner, or the Architect deem significant. The construction schedule shall be in time-scaled precedence format with the critical path clearly indicated, and shall indicate float values. Tasks shall be broken down into activities that allow monitoring their monthly progress. The Contractor shall submit monthly an updated schedule accurately reflecting progress achieved and any changes in the Contractor's planned activities. The Contractor shall give specific notice to the Owner and its consultants of any change in the logic of the schedule or any part thereof, or the removal of any restraints, or the deduction of any duration. If any schedule update shows that the progress of the Work is delayed in comparison to the construction schedule, the Contractor shall, if required by the Owner, provide a proposed "recovery schedule" showing how the Contractor proposes to correct the delay, including overtime and additional labor. No schedule updates shall modify any milestone dates identified as a "Milestone Date" ("Milestone Dates") in the initial construction schedule or subsequently agreed to by the Parties in any update thereto, the Contract Time, the Substantial Completion Date, or the Final Completion Date, unless the Parties execute a Change Order which modifies the Contract Time.



**§ 3.10.2** The Contractor, within fourteen (14) days after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) indicate the dates each specific Shop Drawing or sample required by the Contract Documents will be submitted for approval (2) be coordinated with the Contractor's construction schedule, and (3) allow the Architect seven (7) business days to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals. The Contractor's submittal sequence shall permit an orderly review by the Architect and its consultants, and the schedule shall allow reasonable added time according to the number or complexity of drawings in each submittal and for checking, correction and rechecking or corrections, as well as for return of approved or rejected Shop Drawings and samples to the Contractor and, in turn, to any Subcontractor.

**§ 3.10.3** The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect, and approved by the Owner, provided that no such schedule may adjust the Milestone Dates, Contract Time, the Substantial Completion Date, or the Final Completion Date without the Owner's written approval pursuant to a Change Order or Construction Change Directive.

**§ 3.10.4** In the event the performance of the Work has not progressed or reached the level of completion required by the Contract Documents and the Contractor has not demonstrated to the Owner's reasonable satisfaction that the Contractor will recover the delay without Extraordinary Measures (defined below), the Owner shall have the right to order the Contractor to take measures necessary to expedite the progress of construction, including (i) working additional shifts or overtime, (ii) supplying additional manpower, equipment and facilities, and (iii) other similar measures (hereinafter referred to as "Extraordinary Measures"). Such Extraordinary Measures shall continue until the progress of the Work complies with the stage of completion required by the Contract Documents. The Owner's right to require Extraordinary Measures is solely for the purpose of ensuring the Contractor's compliance with the construction schedule. Unless the delay giving rise to the need for Extraordinary Measures is a delay for which the Contractor is entitled to an increase in the Contract Sum pursuant to Section 8.3 below, the Contractor shall not be entitled to an adjustment of the Contract Sum in connection with Extraordinary Measures required by the Owner under or pursuant to this Section 3.10.4. The Owner may exercise the rights furnished the Owner under or pursuant to this Section 3.10.4 as frequently as the Owner deems necessary to ensure that the Contractor's performance of the Work will comply with any Milestone Dates or completion deadlines set forth in the Contract Documents.

**§ 3.10.5** In addition to construction schedule updates, the Contractor shall deliver to the Owner and the Architect monthly written reports on the progress of the entire Work with each Application for Payment. The progress report shall specify, among other things, a narrative summary of the Work performed and significant events

### **§ 3.11 Documents and Samples at the Site**

The Contractor shall maintain electronically and make available, at the Project site, to the Owner and the Architect: (a) one record copy of the Drawings ("Record Drawings"), and (b) Specifications, Addenda, requests for information, bulletins, Change Orders and other Modifications to the Contract Documents, approved Shop Drawings, Product Data, Samples, and mock-ups, permits, inspection reports, test results, daily reports, field notes, accident reports, schedules, subcontracts, and purchase orders (collectively, "Record Documents"), in good order. The Record Drawings shall be prepared and continuously updated during the prosecution of the Work but no less than once per month. The prints for Record Drawings will be a set of blackline prints provided by the Architect to the Contractor at the start of construction. The Contractor shall maintain said set in good condition and shall use colored pencils or some other method acceptable to the Owner to mark-up said set with "record information" in a legible manner to show: (a) deviations from the Drawings made during construction; (b) details in the Work not previously shown; (c) changes to existing conditions or existing conditions found to differ from those shown on any existing Drawings; (d) the actual installed position of equipment, piping, conduits, light switches, electric fixtures, circuiting, ducts, dampers, access panels, control valves, drains, openings, and stub outs; and (e) such other information as either the Owner or the Architect may reasonably request (collectively, "Updated Information"). The Contractor as a precondition to Final Completion, or upon earlier termination of the Agreement, and as a condition precedent to the certifying of the final payment under the Contract, shall forward to the Owner and Architect the Record Drawings and Record Documents in hard copy or digital, and/or such other available format as the Owner requires, along with a certification that such Record Drawings and Record Documents are true, correct and complete to the best of the Contractor's knowledge, information and belief.



### § 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

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

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect (with copies to the Owner), Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors. Shop Drawings found to be inaccurate or otherwise in error are to be returned for correction before submittal to the Architect. The Contractor shall verify the Shop Drawings of all Subcontractors or trades for interrelated work, as required for proper and complete performance of the Work. All Shop Drawings submitted by the Contractor shall be stamped by the Contractor with the wording "REVIEWED FOR SUBMITTAL" or marked through some other means to clearly indicate to the Architect the submittals have been reviewed by the Contractor and the date of submittal. Submittals not conforming to all the foregoing or which are not marked as received for compliance with the Contract Documents and reviewed by the Contractor may be returned by the Architect without action.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.



**§ 3.12.10.1** If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

**§ 3.12.10.2** If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

**§ 3.12.11** The Architect's review or approval of Shop Drawings and samples shall not be construed as authorizing additional work or increased cost to the Owner, as all changes to the Work, Contract Sum and Contract Time may only be made by a duly executed Modification.

**§ 3.12.12** Substitutions of material or equipment on an "or equal" basis shall not be proposed or requested in Shop Drawings or sample submittals unless (a) approval is requested within thirty (30) days after award of any subcontract, and (b) the Contractor provides the Owner and Architect with supporting data and documentation compliant with Sections 3.4.2 and 7.1.4 herein. Samples may not be employed in the Work without the expressed written permission of the Architect.

**§ 3.12.13** Within fourteen (14) days after being awarded the Contract, the Contractor shall provide the Architect with a submittal schedule indicating the dates each specific Shop Drawing or sample required by the Contract Documents will be submitted for approval. Contractor's submittal sequence shall permit an orderly review by the Architect and its Consultants, and the schedule shall allow reasonable added time according to the number or complexity of drawings in each submittal and for checking, correction and rechecking or corrections, as well as for return of approved or rejected Shop Drawings and samples to the Contractor and, in turn, to any Subcontractor.

### **§ 3.13 Use of Site**

**§ 3.13.1** The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

**§ 3.13.2** Within fourteen (14) days after being awarded the Contract, the Contractor shall deliver to the Owner and the Architect a proposed logistics plan that, among other things, shows the proposed locations for the parking of the Contractor's and its Subcontractors' and suppliers' and their respective personnel's vehicles and the storage and staging of materials and equipment to be incorporated into, or used in connection with, the Work. Only materials and equipment that are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction materials and equipment stored at the Project site from weather, theft, damage, and all other adversity is solely the responsibility of the Contractor. The Contractor shall ensure that the Work, at all times, is performed in a manner that affords reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed, to the fullest extent reasonably possible, in such a manner that public areas adjacent to the site of the Work shall be free from all debris, building materials, and equipment likely to cause hazardous conditions.

**§ 3.13.3** The Contractor shall use best efforts to minimize any interference with the occupancy or beneficial use of (i) any areas and buildings adjacent to the site of the Work and (ii) the building in the event of partial occupancy, as more specifically described in Section 9.9.



§ 3.13.4 The Contractor shall comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and structures, as amended from time to time. The Contractor shall immediately notify the Owner in writing if during the performance of the Work, the Contractor finds compliance of any portion of such rules and regulations to be impracticable, setting forth the problems of such compliance and suggesting alternatives through which the same results intended by such portions of the rules and regulations can be achieved. The Owner may, in the Owner's sole discretion, adopt such suggestions, develop new alternatives or require compliance with the existing requirements of the rules and regulations.

§ 3.13.5 Neither the Contractor nor any entity for whom the Contractor is responsible shall erect any sign on the Project site without the prior written consent of the Owner, which may be withheld, conditioned or delayed in the sole direction of the Owner.

#### **§ 3.14 Cutting and Patching**

**§ 3.14.1** The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

**§ 3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

#### **§ 3.15 Cleaning Up**

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

**§ 3.15.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

#### **§ 3.16 Access to Work**

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

#### **§ 3.17 Royalties, Patents and Copyrights**

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Owner and Architect.

#### **§ 3.18 Indemnification**

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



§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

## ARTICLE 4 ARCHITECT

### § 4.1 General

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

§ 4.1.2 At the Owner's discretion, the duties of the Architect described herein, other than those that require licensure as an architect under applicable law, may be performed by the Owner or the Owner's other designated representative (e.g., the role of reviewing and certifying Applications for Payment and approving Change Orders). The Owner may do so by providing the Contractor written notice of any such role which the Owner or other designated representative is to assume. Neither this nor any other provision of the Contract Documents shall be deemed to relieve the Architect of its obligations to the Owner under the separate agreement between the Owner and the Architect.

### § 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

### § 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to



exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 At the Owner's request, the Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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

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

§ 4.2.13 The Owner's decisions on matters relating to aesthetic effect will be final.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

## ARTICLE 5 SUBCONTRACTORS

### § 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.



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

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design and as to proposed self-performed Work by the Contractor. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Owner and Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Owner's recommendation and/or approval of a Subcontractor or supplier is for its own benefit and in no way shall make the Owner responsible for such Subcontractor or supplier or make the Owner responsible for the means and methods of performing the Work, unless the Owner directs the Contractor to use a specific subcontractor/supplier to which the Contractor objects.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

## § 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. The Contractor shall cause this Contract to be incorporated by reference in all agreements entered into between it and its Subcontractors, such that the terms and conditions of the Contract flow down to and bind all Subcontractors, whether specifically required or not by any provision of the Contract Documents. Additionally, unless otherwise agreed by the Owner in writing, each subcontract agreement shall require or provide that: (a) nothing in the Contract Documents will create a contractual relationship between the Owner and a Subcontractor unless the Owner elects to accept contingent assignment of the Subcontract as provided in Section 5.4 below, (b) the Owner and its successors and assigns, if any, are each intended third-party beneficiaries of the subcontract having a direct right of action against the Subcontractor, including for breaches of warranties; (c) the Work being performed pursuant to such subcontract, as the case may be, shall be performed in accordance with the requirements of the Contract Documents and provide for no less than ten percent (10%) retainage; (d) the Subcontractor shall submit Applications for Payment in form acceptable to the Owner, together with reasonable backup and supporting information, which will be consistent with each Subcontractor having a stipulated sum subcontract price and not a cost-plus subcontract price; (e) the Subcontractor's obligations to indemnify, defend and hold harmless the Indemnitees shall be at least as broad as the Contractor's obligations hereunder; (f) each Subcontractor shall maintain insurance coverage as provided herein, shall deliver to the Owner required certificates of such coverage, and, upon Owner's request, shall provide copies of such insurance policies, and if not included in such policies, additional insured endorsements, to Owner; (g) each Subcontractor and supplier shall continue to perform under its subcontract if the Contract is terminated and if Owner takes an assignment of the subcontract or supply agreement and requests the Subcontractor or supplier to continue such performance, in which event the Subcontractors' and suppliers' rights and claims as against the Owner shall be limited as provided below in Section 5.4; (h) the termination and suspension provisions set forth in Article 14 below are included; and (i) the Subcontractor shall resolve all disputes involving the Owner in the same manner as provided in the Agreement.



Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

#### § 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, (a) the Owner assumes all of the Contractor's rights under the subcontract, and (b) and Owner assumes all of the Contractor's obligations under the subcontract that accrue after the date of assignment.

#### § 5.4.2 Intentionally deleted.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity.

### ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

#### § 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors.

§ 6.1.2 The Owner shall require that its Separate Contractors maintain liability insurance appropriate to the work provided by such Separate Contractors in such amounts as determined by the Owner, in its sole discretion, to be reasonable. However, nothing herein shall make the Owner responsible or liable to the Contractor for the Owner's Separate Contractors' failure to maintain required insurance.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

#### § 6.1.4 Intentionally deleted.

#### § 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.



§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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

### § 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

## ARTICLE 7 CHANGES IN THE WORK

### § 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. A change in the Contract Sum or Contract Time shall be accomplished only by a Change Order. Accordingly, no course of conduct or dealings between the Parties, nor express or implied acceptance of alterations or additions to the Work, and no claim that Owner has been unjustly enriched by any alteration of or addition to the Work, whether or not there is, in fact, any unjust enrichment, shall be a basis of any claim to an increase in any amounts due under the Contract Documents or a change in any time period provided in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement between the Owner and Contractor. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone, subject to the Owner's prior written approval.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.1.4 In order to facilitate checking of quotations for extras or credits, all proposals (including as part of CORs, as defined below in Section 7.5) shall be accompanied by a complete itemization of both budgeted costs and actual costs, including labor hours, labor burden and labor rates used, and material, equipment, and subcontract costs, all of which shall be broken down by CSI Division (or by line item in the approved Schedule of Values, if different) and supported by Subcontractor and supplier quotes and other actual cost documentation, and such other supporting documentation and information as reasonably requested by the Owner or the Architect. Where major cost items are subcontracts, they shall be itemized also.

### § 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

### § 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.



§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive. If the Contractor still disagrees with the adjustment in



the Contract Sum pursuant to this Section 7.3, the Contractor may make a Claim in accordance with the applicable provisions of Article 15.

#### **§ 7.4 Minor Changes in the Work**

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

#### **§ 7.5 Contractor Requested Change Orders**

##### **§ 7.5.1 PCO, COR and ROMs**

If the Contractor becomes aware of any circumstance that may be a change in the scope of the Work, or of an act or failure to act by the Owner, the Architect, or the Owner's other consultants, that in the Contractor's opinion justifies a change to the Contract Sum or Contract Time, or if the Contractor otherwise becomes aware of the need for or desirability of a change in the Work, then the Contractor must within five (5) business days of learning of the potential basis for such change submit a written Notice of Potential Change Order (a "PCO") to the Owner and the Architect advising the Owner of the potential change and, to the extent then known, the reasons for such proposed change and the anticipated time and cost impacts. The Contractor shall submit a written Rough Order of Magnitude ("ROM"), which shall include a more detailed description of the changed Work, an estimated price for such changed Work and estimated adjustment to the Contract Time related to such changed Work, together with any substantiating data required by Section 7.1.4 and this Section 7.5, or otherwise required by the Owner or the Architect, within ten (10) business days after delivery of the PCO. The Contractor shall submit a written Change Order Request ("COR"), which shall include a final detailed description of the changed Work, a final price proposal for such changed Work and any requested adjustment of the Contract Time, together with any additional substantiating data required by Section 7.1.4 and this Section 7.5 not previously delivered to the Owner, or otherwise required by the Owner or the Architect with reasonable promptness thereafter. The Contractor shall clearly label PCOs, ROMs and CORs as such when submitting them to the Owner. In the event that the scope of changed Work, the price of such changed Work and the time impact of such changed Work is known within the time for submitting a ROM, the Contractor may elect not to deliver to the Owner a ROM but rather proceed directly to the delivery to the Owner of a COR within the time for delivery of an ROM. The Contractor may request additional compensation and/or time through a COR but not for instances that the Contractor knew or reasonably should have known occurred more than fifteen (15) business days prior to the date a ROM or COR (if the Contractor elects to deliver an COR within such 15 business-day period) is submitted. The Contractor's failure to deliver a ROM or COR within such fifteen (15) business-day period shall be deemed a waiver of the right to adjustment of the Contract Sum or the Contract Time for the alleged change. Any COR that is approved by the Owner will be incorporated in a Change Order or Construction Change Directive. If the Owner determines that the Work in question is not a change in the scope of the Work and the COR is denied but the Contractor believes that it does have merit, the Contractor may submit a Claim in accordance with the procedures set forth herein.

##### **§ 7.5.2 Claims for Additional Cost**

If the Contractor wishes to make request a Change Order for an increase in the Contract Sum, notice as provided in Section 7.5.1 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. For Change Orders relating to an emergency endangering life or property arising under Section 10.4, notice shall be given as soon as is reasonably practicable.

##### **§ 7.5.3 Claims for Additional Time**

§ 7.5.3.1 If the Contractor wishes to request a Change Order for an increase in the Contract Time, notice as provided in Section 7.5.1 shall be given. The Contractor's COR shall include: (a) an estimate of cost and of probable effect of delay on progress of the Work, (b) a description of the circumstances that form the basis for the COR, (c) the date upon which each cause of delay began to affect the progress of the Work, (d) the date upon which each cause of delay ceased to affect the progress of the Work, and (e) the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. In the case of a continuing delay, only one COR is necessary. The Contractor shall provide such supporting documentation as the Owner may require, including a revised construction schedule indicating the activities affected by the circumstances forming the basis of the COR and indicating the changes resulting from such circumstances between the as-planned and as-built schedule and establishing the required cause and effect relationships. In the case of a COR for acceleration in connection with the exercise of the Owner's rights to require the



Contractor to implement Extraordinary Measures for which the Contractor is entitled to an increase in the Contract Sum pursuant to Section 3.10.4, the Contractor also shall submit other documentation for claimed acceleration consequences, including, when applicable, comparison of anticipated manpower, equipment and material utilization, increased levels of manpower/overtime, and duplicated sets of equipment or materials, indicating the acceleration that occurred.

**§ 7.5.3.2** If adverse weather conditions are the basis for a COR for additional time, such COR shall be documented by data substantiating that weather conditions were abnormal for the period of time and had an adverse effect on the scheduled construction. Only unusual or severe weather conditions for the time of year will be considered as a potential justification for a delay in the completion of the Work and the Contractor agrees that an extension of time will only be granted for actual days lost due to adverse weather conditions that are in excess of the normal days lost due to inclement for the given period, and then only if the excessive actual days lost due to adverse weather conditions negatively impact the critical path of the Project.

#### **§ 7.6 Owner Requested Change Order**

The Owner may issue a request, in writing, to the Contractor, describing a proposed change to the Work and requesting the Contractor submit an itemized proposal to the Owner within ten (10) business days after the Owner issues the request. The Contractor's proposal shall include an analysis of impacts to cost and time, if any, to perform additional work, or delete Work, as applicable, including the effects and impacts, if any, on unchanged Work, estimates of costs and the Contractor's proposed methods to minimize costs, delay and disruption to the performance of the Work. If the Contractor fails to submit a written proposal or request additional time for submitting the proposal within the 10-business day time period, then the Owner may send a subsequent written notice to the Contractor requesting the Contractor's proposal. If the Contractor fails to submit a written proposal or request for additional time for submitting the proposal together with reasonable justification for such request for additional time within five (5) business days after receipt of such subsequent written notice, the Contractor shall not be entitled to an increase in the Contract Sum or an extension of the Contract Time for the requested changed Work (should the Owner elect in writing to proceed with the change) to the extent the increase or extension could have been avoided by the Contractor's timely response to the Owner's request. The Owner's request for a proposed change does not authorize the Contractor to commence performance of the change, unless otherwise specified in writing. If the Owner decides that the proposed change shall be performed, the Work shall be authorized according to the Change Order or Construction Change Directive procedures set forth above.

#### **§ 7.7 Review of Subcontractor Requests**

The Contractor shall make a good faith determination of the validity of the nature and amount of changes requested by Subcontractors before passing through such requests to the Owner. It is the Contractor's responsibility to check all Subcontractor and supplier questions for correctness, completeness, detail and fairness before submitting to the Owner.

### **ARTICLE 8 TIME**

#### **§ 8.1 Definitions**

**§ 8.1.1** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

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

**§ 8.1.3** The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

**§ 8.1.4** The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

#### **§ 8.2 Progress and Completion**

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

**§ 8.2.2** The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.



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

### § 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine. In the case where the Contractor is entitled to an extension of the Contract Time for reasons numbered (3), (4), or (5) in the preceding sentence, the Contractor shall not be entitled to payment for increase in daily or monthly General Conditions Costs. Adjustments in the Contract Time (or Final Completion Date) will be permitted for a delay only to the extent such delay (a) is not caused by the acts, omissions, or other fault of the Contractor, any Subcontractors or suppliers of any tier, any of their employees, or anyone else for whom any of them is responsible, and was not reasonably anticipatable by any of them at the time of execution of the Contract, (b) could not be limited or avoided by the Contractor's timely notice to the Owner of the delay or reasonable likelihood that the delay will occur, (c) delays the critical path of the Work, and (d) written notice is provided to the Owner and the Architect in writing within five (5) business days after Contractor knows of the commencement of each such delay in accordance with Section 7.5. To the extent the Contractor is entitled under the Contract Documents to an extension of time due to a delay, but the performance of the Work is independently suspended, delayed, or interrupted by a delay for which the Contractor is not entitled to an extension of time, the delay shall be deemed to be a "Concurrent Delay." In the case of a Concurrent Delay, the Contractor shall not be entitled to an extension of the Contract Time or any additional compensation whatsoever during the period of Concurrent Delay. The Contractor shall take all reasonable steps to mitigate the impact of any delays, however caused, regardless of whether the Contractor might otherwise be entitled to adjustment of the Contract Sum or Contract Time for such delays.

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

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 While the Contractor may schedule completion of all of the Work, or portions thereof, earlier than the Contract Time, the Owner is exempt from liability for, and the Contractor shall not be entitled to, an adjustment of the Contract Sum or to any additional costs or damages, including claims for increased or extended General Conditions Costs or any other general requirements costs, home office overhead, jobsite overhead and management or administrative costs, or compensation whatsoever for Contractor's inability to complete the Work earlier than the Contract Time for any reason whatsoever, including delay caused by Owner.

§ 8.3.5 Contractor shall be entitled to an extension of time for delays in its Work that are caused by fire or other casualty, earthquakes, wars, riots or strikes, epidemics, pandemics, floods, hurricanes, tornadoes, any Acts of God, or any other unforeseeable and unavoidable force majeure cause(s) beyond Contractors reasonable control. Any claim for an extension of time shall not exceed the number of days the Contractor is actually delayed or adversely impacted in the progress of any critical path Work by the event. Such extension, when justified, shall not entitle Construction Manager to payment for increase in daily or monthly costs.

## ARTICLE 9 PAYMENTS AND COMPLETION

### § 9.1 Contract Sum

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

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

### § 9.2 Schedule of Values

The Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form,



and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

### **§ 9.3 Applications for Payment**

**§ 9.3.1** At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

**§ 9.3.1.1** As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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

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

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

### **§ 9.4 Certificates for Payment**

**§ 9.4.1** The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

**§ 9.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.



## § 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, and may offset against any current payment otherwise due, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

In the event of a withholding pursuant to this Section 9.5.1, the Architect shall certify the undisputed portion of the Application for Payment, if any, and the Owner, subject to the satisfaction of all conditions precedent to payment, shall pay the undisputed amount, if any, of the Contractor's Application for Payment certified by the Architect.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

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

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, (a) the Owner shall notify the Architect, (b) such amount shall be credited against any payment due to the Contractor hereunder and the Owner shall be relieved and released from the obligation to make such payment to the Contractor, and (c) the Contractor shall reflect such payment on its next Application for Payment. The Owner's reserved right to issue joint checks shall not be construed as imposing any obligation upon the Owner to do so. The Owner's exercise of its right to make payment by joint check to particular Subcontractors or suppliers shall not be construed as imposing any obligation upon the Owner to make such payments to other Subcontractors or suppliers. The Owner's exercise of its right to make payments by joint check to some or all Subcontractors or suppliers during particular pay periods shall not be construed as imposing any obligation upon the Owner to make such payments to such Subcontractors or suppliers for other pay periods.

## § 9.6 Progress Payments

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

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.



§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If any lien or liens are claimed on the Owner's or any other person's or entity's property by any person or entity as a result of the Work, to the extent of payments received by Contractor, Contractor shall cause the lien or liens to be satisfied or transferred to other security in accordance with Applicable Laws. If the Contractor fails to do so within twenty (20) days after receiving notice of such lien or claim of lien, the Owner may take such action as it deems advisable to protect itself from such lien or claim of lien and the Contractor shall pay to the Owner the reasonable amounts incurred by the Owner, including reasonable attorneys' fees in taking such protective action. The obligations of the Contractor under this Section 9.6.8 are in addition to and in no way to be construed as a limitation of the obligations of the Contractor's or any Subcontractors' surety under any payment bond.

## § 9.7 Failure of Payment

§ 9.7.1 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the undisputed amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable out-of-pocket costs of shutdown, delay and start-up, subject to the preconditions and limitations of Section 7.5, 8.3, and other provisions of the Contract.

§ 9.7.2 If the Owner is entitled to reimbursement or payment from the Contractor pursuant to the Contract Documents, such payment shall be made within twenty (20) days after the Owner's written demand (unless a different time for such payment is expressly provided for in the Contract Documents). Notwithstanding anything in the Contract Documents to the contrary, if the Contractor fails to timely make any payment due the Owner or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, the Owner shall have the right to offset such amount against any payment then or thereafter due the Contractor from the Owner.

## § 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the



Work for its intended use without material interference from unfinished or improperly finished items of Work and the Owner has accepted the Work as evidenced by the delivery from the Owner to the Contractor of a Certificate of Acceptance in form acceptable to the Owner; provided, however, as conditions precedent to Substantial Completion, (a) the Owner must have received all Certificates of Occupancy and any other permits, approvals, licenses and other documents from any governmental authority having jurisdiction thereof necessary to allow the Owner to occupy and operate the Project for its intended use, and (b) all Project systems included in the Work are operational as designed, scheduled and commissioned.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If such inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall complete or correct such item upon notification by the Architect as a precondition to issuance of the Certificate of Substantial Completion. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

## § 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Owner and Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Owner.

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

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents. Further, partial occupancy shall not: (1) constitute final acceptance of any Work, or (2) relieve the Contractor of responsibility for loss or damage because of or arising out of defects in, or malfunctioning of, any Work, material, or equipment, nor from any other unfulfilled obligations or responsibilities under the Contract Documents.



## § 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until all conditions precedent to final payment set forth in the Contract have occurred or been satisfied and the Contractor submits to the Owner and Architect (1) a duly executed and notarized Contractor's Final Payment Affidavit in statutory form confirming payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, (6) with the Owner's maintenance personnel, the Contractor shall have directed the checkout and/or commissioning of utilities, operations systems, and equipment for readiness, and assisted in their initial start-up and testing, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall not constitute a waiver of Claims by the Owner

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

### § 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract. The review of any safety plan by the Owner or Architect shall not, and shall not be deemed to, release the Contractor or in any way diminish its liability, by way of indemnity or otherwise, as assumed by it under the Contract Documents.

### § 10.2 Safety of Persons and Property

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

.1 employees on the Work and other persons who may be affected thereby;



- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss. Without limitation of the foregoing, the Contractor shall, and shall cause its employees, agents (including Subcontractors) and other representatives to, comply with the requirements of the Occupational Safety and Health Act of 1970, as amended, and similar Applicable Laws. The Contractor shall be deemed the "employer" within the meaning of such Applicable Laws, and neither the Owner nor its consultants shall be responsible for any OSHA non-compliance in connection with performance of the Work. The Contractor shall notify the Owner immediately in the event of an Occupational Safety and Health Administration inspection when no Owner personnel are on site.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards. Further, the Contractor shall employ all necessary measures to protect adjoining adjacent property and shall provide barricades, temporary fences and covered walkways required to protect the safety of passersby, as required by prudent construction practices, the Contract Documents and Applicable Laws.

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

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

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

#### § 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter. Further, the Contractor shall promptly report in writing to the Owner and Architect all accidents which cause death, bodily injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious bodily injuries or serious property damage occur, the Contractor shall immediately report the accident by telephone or messenger to the Owner and Architect.

#### § 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or



polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

**§ 10.3.2** Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

**§ 10.3.3** Neither Contractor, Subcontractors, nor the employees of any of them shall be liable for claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

**§ 10.3.4**

The Contractor shall not knowingly use or permit the use of any hazardous substance at the Project site without the express written consent of the Owner. The Contractor agrees not to use any fill or other materials to be incorporated into the Work which are hazardous, toxic or comprised of any items that are hazardous or toxic. The Owner shall not be responsible for hazardous materials or substances the Contractor or anyone for whom the Contractor is responsible or liable brings to the site unless such materials or substances are required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

**§ 10.3.5** The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

**§ 10.3.6** If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

**§ 10.4 Emergencies**

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

**§ 10.5 Mold, Mildew, Fungi and Other Airborne Microbial Conditions**

The Contractor shall perform the Work with all reasonable steps and precautions to minimize as much as reasonably practicable potential danger to person or property exposed to mold, mildew, fungi, or other microbial conditions, including Aspergillosis ("Airborne Fungi") caused by the Contractor's performance of the Work. Without limitation, the Contractor shall comply with all Applicable Laws relating to control of any, mold, fungi, or other microbial contamination that is created by the Contractor or anyone for whom the Contractor is responsible for during the course of the Work, without additional charge or expense to Owner. For the avoidance of doubt, Applicable Laws include: (a) all of the requirements of the current Federal Occupational Safety and Health Act ("Act"), as well as any amendments thereto and all regulations promulgated under the Act, (b) all guidelines developed by the U.S. Environmental Protection Agency, (c) all orders of public authorities having jurisdiction, and (d) all statutes regulating the licensure of persons or business entities engaged in the control or remediation of mold, fungi, or other microbial contamination. Should the Contractor fail to comply with the



requirements of this Section, the Contractor shall be responsible for all damages caused by any Airborne Fungi arising from or created by such Work and shall indemnify and hold harmless Indemnitees from and against any and all claims, damages, losses or expenses, including attorneys' fees, associated with any actual or alleged bodily injuries or property damage sustained by any person, arising out of or in consequence of Airborne Fungi to the extent caused by or created by the performance of such Work. Upon the discovery of any such contamination, the Contractor shall immediately provide written notice to Owner and any insurance carrier(s) providing applicable coverage.

## **ARTICLE 11 INSURANCE AND BONDS**

### **§ 11.1 Contractor's Insurance and Bonds**

**§ 11.1.1** The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

**§ 11.1.2** The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

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

**§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

**§ 11.1.5** The Contractor shall cause each Subcontractor to purchase and maintain the insurance of the types and limits of liability, as described in the Agreement or elsewhere in the Contract Documents. The coverage afforded under any insurance policy obtained under or pursuant to the Contract Documents shall be primary to and non-contributory with any valid and collectible insurance carried separately by any of the additional insureds. If the additional insureds have other insurance that is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the insurance liability under this insurance policy shall not be reduced by the existence of other insurance.

### **§ 11.2 Owner's Insurance**

**§ 11.2.1** The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

**§ 11.2.2 Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the



Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

**§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

### **§ 11.3 Waivers of Subrogation**

**§ 11.3.1** The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

**§ 11.3.2** If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

### **§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance**

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

### **§ 11.5 Adjustment and Settlement of Insured Loss**

**§ 11.5.1** A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner. Subject to the foregoing, the Owner shall have the full power to adjust and settle all losses and claims under the Owner's property insurance policy or policies.

**§ 11.5.2** Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and



Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

## ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

### § 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Owner, Architect, or any governing authority has not specifically requested to examine prior to its being covered, the Owner, the Architect, or any governing authority may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

### § 12.2 Correction of Work

#### § 12.2.1 Before Substantial Completion

The Contractor shall within twenty-four (24) hours in the event of an emergency threatening imminent harm to person or property or, otherwise, within seven (7) days of receipt of notice from the Owner remove from the Project site any Work that the Owner rejects as unsound or improper or in any way fails to meet the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

#### § 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner. If the Contractor fails to correct nonconforming Work as provided herein, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work. The Contractor's obligations under Section 12.2 shall survive acceptance of the Work under the Contract and termination of the Contract.

§ 12.2.2.3 Upon completion of any corrective work required under this Section 12.2, the one (1) year correction period described in this Section 12.2 shall recommence with respect to the item corrected. The obligations under Section 12.2 shall also include any repairs to and/or replacement of any part of the Work and any other real and personal property which is damaged in the process of correcting any defective Work.

§ 12.2.3 The Contractor shall, within twenty-four (24) hours in the event of an emergency threatening imminent harm to person or property or, otherwise, within seven (7) days of receipt of notice from the Owner, remove from the site portions of the Work that are defective or otherwise not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner in writing.

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



§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### § 12.3 Acceptance of Nonconforming Work

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

## ARTICLE 13 MISCELLANEOUS PROVISIONS

### § 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

### § 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract. Further, the Contractor may not assign any monies due to it under the Contract without the prior written consent of the Owner.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

### § 13.3 Rights and Remedies

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

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

### § 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.



§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

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

§ 13.4.5

Amounts not paid when due shall accrue interest at the prevailing SC rate.

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

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped (a) for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or (b) for a period of 90 consecutive days through no fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work because of the issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped, or an act of government, such as a declaration of national emergency, that requires all Work to be stopped.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' additional notice to the Owner and Architect, terminate the Contract and shall, as the Contractor's sole remedy, receive payment for unpaid amounts for Work executed based on a percentage of the Contract Sum equal to the percentage completion of the Work. Further the Contractor shall be entitled to recover reasonable costs of demobilization, re-stocking fees, purchase order cancellation fees and similar direct costs of termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
- .4 is adjudged as bankrupt, files for bankruptcy protection, or makes a general assignment for the



- benefit of its creditors, or if a receiver is appointed on account of insolvency;  
.5 fails to prosecute the Work to completion in a diligent and timely manner and in accordance with the provisions of the Contract Documents;  
.6 fails or refuses to provide insurance or proof of insurance as required by the Contract Documents; or  
.7 otherwise is guilty of material or substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract. Nothing herein shall be deemed to limit the Owner's rights at law or in equity.

#### § 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine. Upon receipt of a written notice, Contractor shall proceed with the orderly cessation of the Work to accomplish such suspension and take steps as well to protect and preserve the Work completed and permit the resumption of the Work if and when directed by the Owner. In this regard, the Contractor shall cooperate with the Owner in good faith and minimize costs that accrue during the period of suspension.

§ 14.3.2 The Contractor shall promptly recommence the Work upon written notice from Owner directing Contractor to resume the Work. The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1; provided however that adjustment of the Contract Sum shall include only reasonable out-of-pocket costs necessarily incurred by the Contractor for increased costs directly resulting from such suspension, demobilization, remobilization, and protection of the Work during the suspension, and those General Condition Costs that will continue to accrue during the period of the suspension. No adjustment shall be made to the extent

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

#### § 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

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



.5 except for Work directed by the Owner to be performed, incur no further costs or expenses.

**§ 14.4.3** In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for (a) unpaid Costs of the Work properly completed prior to the effective date of termination, (b) a percentage of the Contract Sum equal to the percentage completion of the entire Work, (c) the Costs of the Work for items properly and timely fabricated off the Project site, delivered and stored in accordance with the Owner's instructions, (d) costs for demobilization, restocking fees and lost deposits incurred as a result of the termination, and (e) amounts due but unpaid for Preconstruction Services. The amount to be paid the Contractor as provided herein shall be the amount determined by audit of the Contractor's records. The Contractor's invoice for compensation in the event of termination must be supported by sufficient records and documentation to enable the Owner and its auditors to verify all amounts claimed by the Contractor. The Owner shall be credited for (i) payments previously made to the contractor for the terminated portion of the Work, (ii) claims which the Owner has against the Contractor under the Contract, and (iii) the value of the materials, supplies, equipment or other items that are to be disposed of by the Contractor that are part of the Contract Sum. Upon termination pursuant to this Section and payment of the amounts owing the Contractor, the Owner shall have no further obligation to the Contractor. The Owner shall in no event be liable to the Contractor for any unabsorbed overhead or unrealized profits with respect to the terminated Work.

**§ 14.4.4** If the Owner terminates the Contract for cause (as distinguished from termination for its convenience) and it shall be determined that the Owner's termination was unjustified, such termination shall be deemed to have been a termination for the Owner's convenience under Section 14.4 hereof.

## **ARTICLE 15 CLAIMS AND DISPUTES**

### **§ 15.1 Claims**

#### **§ 15.1.1 Definition**

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract; provided, however, a request for a Change Order shall not constitute a Claim (and a request for a Change Order shall be governed by the provisions of Article 7 hereof). The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

#### **§ 15.1.2 Time Limits on Claims**

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

#### **§ 15.1.3 Notice of Claims**

**§ 15.1.3.1** Claims by the Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the Owner and to the Architect. Unless a shorter period of time is specified herein, Claims by the Contractor under this Section 15.1.3.1 shall be initiated within ten (10) days after occurrence of the event giving rise to such Claim or within ten (10) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Denial in whole or part of a COR submitted in accordance with Section 7.5 shall be deemed the occurrence of the event giving rise to a Claim for any adjustment of the Contract Sum or Contract Time sought in the COR but denied in whole or in part. For the avoidance of doubt, the Contractor shall be deemed to waive any Claims for adjustment of the Contract Sum or Contract Time: (a) which the Contractor sought via COR that was denied and as to which the Contractor did not submit a Claim within ten (10) business days thereafter; (b) which the Contractor failed to timely and properly request as provided in Section 7.5; and (c) based on changes in the Work or other events or circumstances for which a Change Order was previously executed.

**§ 15.1.3.2** Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party.



**§ 15.1.4 Continuing Contract Performance**

**§ 15.1.4.1** Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

**§ 15.1.4.2** The Contractor or, at the Owner's request, the Architect will prepare Change Orders and the Architect shall issue Certificates for Payment in accordance with any agreements reached between the Owner and the Contractor.

**§ 15.1.5 Claims for Additional Cost**

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

**§ 15.1.6 Claims for Additional Time**

**§ 15.1.6.1** If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

**§ 15.1.6.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

**§ 15.1.7 Waiver of Claims for Consequential Damages**

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

**§ 15.2 Initial Decision**

**§ 15.2.1** Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

**§ 15.2.2** The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

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



Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

**§ 15.2.4** If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

**§ 15.2.5** The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

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

**§ 15.2.6.1** Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

**§ 15.2.7** In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

**§ 15.2.8** If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

### **§ 15.3 Mediation**

**§ 15.3.1** Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

**§ 15.3.2** The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

**§ 15.3.3** Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

**§ 15.3.4** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.



**§ 15.4 Arbitration**

**§ 15.4.1** If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

**§ 15.4.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

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

**§ 15.4.3** The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

**§ 15.4.4 Consolidation or Joinder**

**§ 15.4.4.1** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

**§ 15.4.4.2** Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.





**FAA**  
**Airports**

# **Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects**

(Issued on May 24, 2023)

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## **APPENDIX A – CONTRACT PROVISIONS**

### **A1 ACCESS TO RECORDS AND REPORTS**

#### **ACCESS TO RECORDS AND REPORTS**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.



**A2 AFFIRMATIVE ACTION REQUIREMENT****NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO  
ENSURE EQUAL EMPLOYMENT OPPORTUNITY**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

**Timetables**

Goals for minority participation for each trade: **23.4**

Goals for female participation in each trade: 6.9%

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is **South Carolina, Lexington County, Richland County, City of Columbia.**



### **A3 BREACH OF CONTRACT TERMS**

#### **BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the *Contractor* or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide *Contractor* written notice that describes the nature of the breach and corrective actions the *Contractor* must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the *Contractor* must correct the breach. Owner may proceed with termination of the contract if the *Contractor* fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.



**A4 BUY AMERICAN PREFERENCE****FAA BUY AMERICAN PREFERENCE**

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws,<sup>1</sup> U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

The bidder or offeror must complete and submit the certification of compliance with FAA's Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA's Buy American Preference and BABA.

The bidder or offeror certifies that all constructions materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

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<sup>1</sup> Per Executive Order 14005 "Made in America Laws" means all statutes, regulations, rules, and Executive Orders relating to federal financial assistance awards or federal procurement, including those that refer to "Buy America" or "Buy American," that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured products offered in the United States.



#### **A4.1.1 Certification of Compliance with FAA Buy American Preference – Construction Projects**

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with its proposal. The bidder or offeror must indicate how it intends to comply with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e., not both) by inserting a checkmark (✓) or the letter “X”.

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
- a) Only installing iron, steel and manufactured products produced in the United States;
  - b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
  - c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or the FAA evidence that documents the source and origin of the iron, steel, and/or manufactured product.
  - b) To faithfully comply with providing U.S. domestic products.
  - c) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
  - d) Certify that all construction materials used in the project are manufactured in the U.S.
- ☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
  - b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
  - c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.



- d) To furnish U.S. domestic product for any waiver request that the FAA rejects.
- e) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

### **Required Documentation**

**Type 2 Waiver (Nonavailability)** - The iron, steel, manufactured goods or construction materials or manufactured goods are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

**Type 3 Waiver** – The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “facility/project.” The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all manufactured products that are not comprised of 100 percent U.S. domestic content (excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

**Type 4 Waiver (Unreasonable Costs)** - Applying this provision for iron, steel, manufactured goods or construction materials would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) A completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bids and/or offers;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.



**False Statements:** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

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Date

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Signature

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Company Name

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Title



#### **A4.1.2 Certification of Compliance with FAA Buy American Preference – Equipment/Building Projects**

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101, and other Made in America Laws, U.S. statutes, guidance, and FAA policies by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter “X”.

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
- a) Only installing steel and manufactured products produced in the United States;
  - b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
  - c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or FAA evidence that documents the source and origin of the steel and manufactured product.
  - b) To faithfully comply with providing U.S. domestic product.
  - c) To furnish U.S. domestic product for any waiver request that the FAA rejects.
  - d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- ☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
  - b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
  - c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.



- d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

### **Required Documentation**

**Type 2 Waiver (Nonavailability)** - The iron, steel, manufactured goods or construction materials are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

**Type 3 Waiver** – The cost of the item components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “item”. The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108 (products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver (Unreasonable Costs)** - Applying this provision for iron, steel, manufactured goods or construction materials, would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bidders and/or offerors;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.



**False Statements:** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

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Date

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Signature

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Company Name

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Title



## **A5 CIVIL RIGHTS - GENERAL**

### **GENERAL CIVIL RIGHTS PROVISIONS**

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.



## A6 CIVIL RIGHTS – TITLE VI ASSURANCE

### Title VI Solicitation Notice:

The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

### Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq*) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);



- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

### **Compliance with Nondiscrimination Requirements:**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor’s noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.



6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

## **A7 CLEAN AIR AND WATER POLLUTION CONTROL**

### **CLEAN AIR AND WATER POLLUTION CONTROL**

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceed \$150,000.



**A8 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS****CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS****1. Overtime Requirements.**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**2. Violation; Liability for Unpaid Wages; Liquidated Damages.**

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

**3. Withholding for Unpaid Wages and Liquidated Damages.**

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

**4. Subcontractors.**

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.



## **A9 COPELAND “ANTI-KICKBACK” ACT**

### **COPELAND “ANTI-KICKBACK” ACT**

Contractor must comply with the requirements of the Copeland “Anti-Kickback” Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.



**A10 DAVIS-BACON REQUIREMENTS****DAVIS-BACON REQUIREMENTS****1. Minimum Wages.**

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor,



Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding. The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

### 3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types



described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.*, the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) That each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;



(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

#### 4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman’s hourly rate) specified in the Contractor’s or subcontractor’s registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice’s level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits,



apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

#### 5. Compliance with Copeland Act Requirements.

The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

#### 6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

#### 7. Contract Termination: Debarment.



A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC § 1001.



**A11 DEBARMENT AND SUSPENSION****CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must confirm each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally-assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.



## **A12 DISADVANTAGED BUSINESS ENTERPRISE**

### **Bid Information Submitted as a matter of responsiveness:**

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR § 26.53.

As a condition of responsiveness, the Bidder or Offeror must submit the following information with its proposal on the forms provided herein:

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal
- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.



**Bid Information submitted as a matter of responsibility:**

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR § 26.53.

As a condition of responsibility, every Bidder or Offeror must submit the following information on the forms provided herein within five days after bid opening.

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal;
- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

**Prompt Payment (49 CFR § 26.29; acceptable/sample text provided) –**

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the Owner. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Owner. This clause applies to both DBE and non-DBE subcontractors.

**Termination of DBE Subcontracts (49 CFR § 26.53(f); acceptable/sample text provided) –**

The prime contractor must not terminate a DBE subcontractor listed in response to this solicitation (or an approved substitute DBE firm) without prior written consent of the Owner. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent Owner. Unless Owner consent is provided, the prime contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

[Name of Recipient] may provide such written consent only if Owner agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR §26.53.



Before transmitting to the Owner its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to Owner of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise [Name of Recipient] and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why Owner should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), Owner may provide a response period shorter than five days.

In addition to post-award terminations, the provisions of this section apply to preaward deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.



## **A13 DISTRACTED DRIVING**

### **TEXTING WHEN DRIVING**

In accordance with Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving”, (10/1/2009) and DOT Order 3902.10, “Text Messaging While Driving”, (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$10,000 that involve driving a motor vehicle in performance of work activities associated with the project.



**A14 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO  
SURVEILLANCE SERVICES OR EQUIPMENT**

**PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE  
SERVICES OR EQUIPMENT**

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)]



## **A15 EQUAL EMPLOYMENT OPPORTUNITY (EEO)**

### **EQUAL OPPORTUNITY CLAUSE**

During the performance of this contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in



whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided*, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### **STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS**

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
  - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
  - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.



3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

- a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.



- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
- c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other



training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).



10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).



## **A16 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The *Contractor* has full responsibility to monitor compliance to the referenced statute or regulation. The *Contractor* must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.



**A17 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES****CERTIFICATION REGARDING LOBBYING**

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



## **A18 PROHIBITION OF SEGREGATED FACILITIES**

### **PROHIBITION OF SEGREGATED FACILITIES**

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

(b) “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.



## **A19 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.



**A20 PROCUREMENT OF RECOVERED MATERIALS****PROCUREMENT OF RECOVERED MATERIALS**

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- 1) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
- 2) The contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at [www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products](http://www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products).

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b) Fails to meet reasonable contract performance requirements; or
- c) Is only available at an unreasonable price.



## **A21 SEISMIC SAFETY**

### **SEISMIC SAFETY**

The Contractor agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.



## A22 TAX DELINQUENCY AND FELONY CONVICTIONS

### CERTIFICATION OF OFFEROR/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

#### Certifications

- 1) The applicant represents that it is ( ☐ ) is not ( ☐ ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is ( ☐ ) is not ( ☐ ) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

#### Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the Sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

#### Term Definitions

**Felony conviction:** Felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

**Tax Delinquency:** A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.



## **A23 TERMINATION OF CONTRACT**

### **TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)**

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Contractor must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.
4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.
6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Contractor for:

1. Completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
2. Documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
3. Reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
4. Reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action.

Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.

### **TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)**

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.



Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

#### **TERMINATION FOR CAUSE (CONSTRUCTION)**

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes standard language for conditions, rights, and remedies associated with Owner termination of this contract for cause due to default of the Contractor.

### **A24 TRADE RESTRICTION CERTIFICATION**

#### **TRADE RESTRICTION CERTIFICATION**

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC § 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR § 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR; or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.



Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.



## **A25 VETERAN'S PREFERENCE**

### **VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.



## **A26 DOMESTIC PREFERENCES FOR PROCUREMENTS**

### **CERTIFICATION REGARDING DOMESTIC PREFERENCES FOR PROCUREMENTS**

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.



Superseded General Decision Number: SC20240033

State: South Carolina

Construction Type: Building

Counties: Calhoun, Fairfield, Lexington and Saluda Counties in South Carolina.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

|   |   |
|---|---|
| If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022: | <ul style="list-style-type: none"><li>. Executive Order 14026 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.</li></ul> |
| If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:         | <ul style="list-style-type: none"><li>. Executive Order 13658 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on</li></ul>                       |



The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number

0

Publication Date

01/03/2025

ELEC0776-002 03/01/2024

|                  | Rates    | Fringes |
|------------------|----------|---------|
| ELECTRICIAN..... | \$ 32.80 | 13.99   |

Work more than 40 ft. above the ground on or from swinging scaffolds, boson chairs, or raw structural steel: \$1.00 per hour additional.

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PLUM0421-005 07/01/2024

|                 | Rates    | Fringes |
|-----------------|----------|---------|
| PIPEFITTER..... | \$ 36.00 | 14.19   |

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SUSC2011-029 08/31/2011

|   | Rates       | Fringes |
|---|-------------|---------|
| BRICKLAYER.....   | \$ 18.00    | 0.00    |
| CARPENTER (Drywall Hanging Only).....                   | \$ 16.32 ** | 1.50    |
| CARPENTER (Form Work Only).....                         | \$ 13.83 ** | 4.69    |
| CARPENTER, Excludes Drywall Hanging, and Form Work..... | \$ 15.57 ** | 4.66    |



# ATTACHMENT E

|   |             |      |
|---|-------------|------|
| CEMENT MASON/CONCRETE FINISHER....                            | \$ 15.29 ** | 0.00 |
| GLAZIER.....  | \$ 18.41    | 0.00 |
| HVAC MECHANIC (HVAC Duct<br>Installation Only).....           | \$ 19.71    | 1.93 |
| LABORER: Common or General.....                               | \$ 10.33 ** | 0.00 |
| LABORER: Landscape.....                                       | \$ 9.45 **  | 0.49 |
| LABORER: Mason<br>Tender-Brick/Concrete/Cement/S<br>tone..... | \$ 11.00 ** | 0.00 |
| LABORER: Pipelayer.....                                       | \$ 14.69 ** | 2.08 |
| OPERATOR:<br>Backhoe/Excavator/Trackhoe.....                  | \$ 16.81 ** | 2.67 |
| OPERATOR: Bulldozer.....                                      | \$ 17.07 ** | 2.65 |
| OPERATOR: Crane.....  | \$ 19.39    | 2.02 |
| OPERATOR: Grader/Blade.....                                   | \$ 17.50 ** | 1.78 |
| OPERATOR: Loader.....   | \$ 14.18 ** | 1.99 |
| PAINTER: Brush, Roller and<br>Spray.....                      | \$ 12.24 ** | 0.00 |
| PLUMBER.....  | \$ 16.86 ** | 0.95 |
| ROOFER.....   | \$ 12.21 ** | 0.00 |
| TRUCK DRIVER.....   | \$ 14.05 ** | 3.18 |

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WELDERS - Receive rate prescribed for craft performing  
operation to which welding is incidental.

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\*\* Workers in this classification may be entitled to a higher  
minimum wage under Executive Order 14026 (\$17.75) or 13658  
(\$13.30). Please see the Note at the top of the wage  
determination for more information. Please also note that the  
minimum wage requirements of Executive Order 14026 are not  
currently being enforced as to any contract or subcontract to



which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

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The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

#### Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next



## ATTACHMENT E

number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

### Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE:

UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

### Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

### State Adopted Rate Identifiers



## ATTACHMENT E

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

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### WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to [davisbaconinfo@dol.gov](mailto:davisbaconinfo@dol.gov) or by mail to:

Branch of Wage Surveys  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to [BCWD-Office@dol.gov](mailto:BCWD-Office@dol.gov) or by mail to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.



2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to [dba.reconsideration@dol.gov](mailto:dba.reconsideration@dol.gov) or by mail to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210.

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END OF GENERAL DECISION"