

**DOWNERS GROVE PUBLIC LIBRARY
BOARD OF TRUSTEES
REGULAR MONTHLY MEETING
MARCH 21, 2018, 7:30 P.M.
LIBRARY MEETING ROOM**

AGENDA

1. Call to Order
2. Roll Call
3. Welcome to Visitors
4. Approval of Minutes
5. Financial Matters
 - a. February 2018 Financial Report
 - b. March 2018 InvoicesRequested Action: Approval
6. Public Comment on Agenda Items
7. Public Comment on Other Library Business
8. New Business
 - a. Construction Management Contract – Shales McNutt Construction
Requested Action: Approval
 - b. Strategic Plan – Action Plan Update
Requested Action: Approval
9. Unfinished Business
 - a. Bylaws – Third Reading
Requested Action: Approval
10. Library Director's Report
11. Trustee Comments and Requests for Information
12. Adjournment

**DOWNERS GROVE PUBLIC LIBRARY
BOARD OF TRUSTEES
REGULAR MONTHLY MEETING
FEBRUARY 28, 2018, 7:30 P.M.
LIBRARY MEETING ROOM**

DRAFT MINUTES

1. **Call to Order.** President Graber called the meeting to order at 7:30 p.m.
2. **Roll Call.** Members present: Trustee Ed Earl, Trustee Susan Eblen, Trustee Swapna Gigani, Trustee David Humphreys, Trustee Kim Stapleton, President Jonathan Graber. Absent: None.

Also present: Director Julie Milavec, Assistant Director Jen Fredericks, Executive Assistant Katelyn Vabalaitis, Friends of the Library President Joni Hansen, Downers Grove Public Library Foundation Treasurer Ed Pawlak, Kathryn Deiss of Kathryn Deiss Consulting, and one member of the public.
3. **Welcome to Visitors.** President Graber welcomed visitors and thanked them for their interest in the library.
4. **Approval of Minutes.** It was moved by Earl and seconded by Eblen THAT the Minutes of the January 24, 2018 Regular Monthly Meeting be approved as presented. Motion passed by voice vote.
5. **Financial Matters.**
 - a. January 2018 Financial Report. Milavec presented the report, noting that the final 2017 expenditure report was included in the Board's packet. The library is 8% into 2018. The insurance budget line is already 90% spent because the insurance policy package arrives in the first month of the year with the new carrier.
 - b. February 2018 Invoices. It was moved by Eblen and seconded by Humphreys THAT the payment of February 2018 invoices totaling \$112,009.07, the acceptance of February 2018 credit memos totaling \$29.97, and the ratification of January 2018 payrolls totaling \$200,313.05 be approved.
6. **Public Comment on Agenda Items.** President Graber invited comment. There was none.
7. **Public Comment on Other Library Business.** President Graber invited comment. There was none.

8. New Business.

- a. Bibliotheca Annual Service Maintenance Agreement Renewal. Milavec presented the renewal agreement that covers service and maintenance on all of the library's Bibliotheca products. These products include the sorter and all of its parts, all seven self-check stations and their credit card swipes, software, and RFID stations for attaching tags to items. Bibliotheca charges a large per-visit cost if there is no service agreement and the library has them out at least once a month, so Milavec and staff recommend renewal of the service maintenance agreement.

It was moved by Humphreys and seconded by Stapleton THAT the Bibliotheca Annual Service and Maintenance Agreement Renewal for \$40,350.88 be approved for payment. Roll call: Ayes: Earl, Eblen, Gigani, Humphreys, Stapleton, Graber. Nays: None. Abstentions: None.

- b. Organizational Chart. Milavec presented a revised organizational chart. As vacancies occur in various departments, staffing has been adjusted to meet the library's strategic plan goals. The Board has approved previous organizational charts, but it was decided that moving forward, Board approval will not be needed. Graber asked for a short description of each department so the Board can better understand what each department does and how they overlap. Milavec will organize this for a future meeting.

9. Unfinished Business.

- a. Bylaws – Second Reading. Graber had a few minor changes to the proposed bylaws and sent them by email to Milavec. The revised Bylaws will be distributed to the Board before the March meeting so that a vote can take place at the March 21 meeting.

10. **Library Director's Report**. Milavec presented her report (attached). The March Board meeting is a week early on March 21. Milavec will be out of town the week of March 12, so the Board packet will be distributed on Monday, March 19. The library's annual report was completed. The 2018 project planning is under way and Shales McNutt will come before the Board in March with their construction management contract proposal. The Board will look over the full project in April. The financial management plan was included in the Board's packet.

11. Trustee Comments and Requests for Information.

Humphreys commented that he is very happy with the relationship the library has established with Shales McNutt.

12. **Adjournment**. It was moved by Eblen and seconded by Gigani THAT the Regular Meeting of the Board of Trustees be adjourned. Motion passed by voice vote. President Graber adjourned the meeting at 7:50 p.m.

**DOWNERS GROVE PUBLIC LIBRARY
BOARD OF TRUSTEES
COMMITTEE OF THE WHOLE MEETING
FEBRUARY 28, 2018, 7:45 P.M.
LIBRARY MEETING ROOM**

DRAFT MINUTES

1. **Call to Order.** President Graber called the meeting to order at 7:51 p.m.
2. **Board Development Session.** The Board participated in a training session titled “Improving Board Communication”. The training was facilitated by Kathryn Deiss of Kathryn Deiss Consulting.
3. **Adjournment.** It was moved by Humphreys and seconded by Gigani THAT the Committee of the Whole Meeting of the Board of Trustees be adjourned. Motion passed by voice vote. President Graber adjourned the meeting at 8:52 p.m.

DOWNERS GROVE LIBRARY

2/28/2018

	Library fund	Building & Equip Replacement Fund
CASH & INVESTMENTS	\$ 640,866	\$ 1,406,405
FUND BALANCE	\$ 574,166	\$ 1,406,405

Revenue by Object Report

Village of Downers Grove
2/1/2018 through 2/28/2018

Grand Totals

<i>Object/Title</i>	<i>Adjusted Estimate</i>	<i>Revenues</i>	<i>Year-to-date Revenues</i>	<i>Balance</i>	<i>Prct Rcvd</i>
4101 Current Property Taxes	5,182,314.00	0.00	0.00	5,182,314.00	0.00
4109 Prior Year Property Taxes	100.00	3.25	3.25	96.75	3.25
4313 Personal Property Replacement Tax	60,000.00	2.69	6,497.42	53,502.58	10.83
4410 Sales of Materials	10,000.00	1,118.28	1,831.88	8,168.12	18.32
4502 Charges For Services	15,000.00	14,327.97	16,042.35	-1,042.35	106.95
4509 Fees For Non-Residents	16,000.00	1,677.00	3,225.00	12,775.00	20.16
4571 Rental Fees	4,500.00	450.00	670.00	3,830.00	14.89
4581 Fines	42,000.00	2,697.00	6,292.09	35,707.91	14.98
4590 Cost Recovered For Services	15,000.00	843.46	1,557.03	13,442.97	10.38
4610 Federal, Operational Grants	0.00	0.00	0.00	0.00	0.00
4620 State, Operational Grants	36,910.00	0.00	0.00	36,910.00	0.00
4711 Investment Income	2,000.00	0.26	3.02	1,996.98	0.15
4712 Investment Income - Property Taxes	0.00	0.00	0.00	0.00	0.00
4820 Contributions, Operating	5,000.00	0.00	190.09	4,809.91	3.80
4988 Bond Issue Proceeds	0.00	0.00	0.00	0.00	0.00
4997 Prior Period Adjustments	0.00	0.00	0.00	0.00	0.00
Grand Totals	5,388,824.00	21,119.91	36,312.13	5,352,511.87	0.67

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03/07/2018 12:04PM
Periods: 3 through 3

Expenditures by Object Report

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Village of Downers Grove
3/1/2018 through 3/31/2018

Grand Totals

Object/Title	Adjusted Appropriation	Expenditures	Year-to-date Expenditures	Year-to-date Encumbrances	Balance	Prct Used
5101 Salaries, Exempt	1,328,658.00	52,041.71	258,571.87	0.00	1,070,086.13	19.4
5111 Salaries, Non-Exempt	342,852.00	7,503.23	35,693.80	0.00	307,158.20	10.4
5119 Part-Time Employee Wages	1,241,170.00	43,468.66	215,870.82	0.00	1,025,299.18	17.3
5131 IMRF Pension Contributions	257,339.00	8,892.28	43,850.41	0.00	213,488.59	17.0
5133 Medicare Contributions	41,935.00	1,462.99	7,264.09	0.00	34,670.91	17.3
5134 Social Security Contributions	179,315.00	6,255.29	31,059.84	0.00	148,255.16	17.3
5190 Life Insurance	1,044.00	64.60	200.60	0.00	843.40	19.2
5191 Health Insurance	360,420.00	12,380.00	55,912.50	0.00	304,507.50	15.5
5195 Optical Insurance	2,492.00	81.16	364.19	0.00	2,127.81	14.6
5197 Dental Insurance	38,808.00	1,114.76	5,161.32	0.00	33,646.68	13.3
5210 Supplies	87,200.00	7,792.39	8,014.30	0.00	79,185.70	9.1
5251 Maintenance Supplies	18,000.00	1,864.99	2,149.23	0.00	15,850.77	11.9
5280 Small Tools & Equipment	34,600.00	2,899.00	3,674.87	0.00	30,925.13	10.6
5302 Dues And Memberships	7,500.00	118.00	1,120.00	0.00	6,380.00	14.9
5303 Seminars, Conferences & Meetings	34,250.00	3,593.41	3,593.41	0.00	30,656.59	10.4
5308 Recognition Program-Staff	5,000.00	871.01	871.01	0.00	4,128.99	17.4
5315 Professional Services	60,000.00	2,586.40	3,795.53	0.00	56,204.47	6.3
5322 Personnel Recruitment	2,000.00	0.00	0.00	0.00	2,000.00	0.0
5323 Special Legal	6,000.00	687.00	687.00	0.00	5,313.00	11.4
5346 Data Processing Services	105,000.00	40,350.88	53,656.63	0.00	51,343.37	51.1
5380 Printing Services	18,700.00	2,906.00	2,906.00	0.00	15,794.00	15.5
5391 Telephone	20,000.00	3,564.99	4,654.03	0.00	15,345.97	23.2
5392 Postage	25,500.00	6,612.50	6,612.50	0.00	18,887.50	25.9
5407 Advertising And Public Relations	20,375.00	1,077.44	1,077.44	0.00	19,297.56	5.2
5420 Insurance - Other Policies	43,000.00	0.00	39,007.00	0.00	3,993.00	90.7
5430 Building Maintenance Services	90,000.00	10,324.50	13,401.50	0.00	76,598.50	14.8
5450 Cleaning Services	80,000.00	13,965.00	19,510.00	0.00	60,490.00	24.3
5461 Utilities	25,000.00	3,961.15	4,485.76	0.00	20,514.24	17.9
5470 Other Equipment Repair And Maintenance	11,500.00	2,421.02	2,421.02	0.00	9,078.98	21.0
5481 Rentals	20,500.00	898.07	1,796.14	0.00	18,703.86	8.7

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Expenditures by Object Report

Village of Downers Grove
3/1/2018 through 3/31/2018

Grand Totals [Continued]

Object/Title	Adjusted Appropriation	Expenditures	Year-to-date Expenditures	Year-to-date Encumbrances	Balance	Prct Used
5620 Recoverables	4,000.00	668.30	668.30	0.00	3,331.70	16.7
5630 Contingency	10,000.00	0.00	0.00	0.00	10,000.00	0.0
5690 Unemployment Compensation	10,000.00	0.00	3,641.00	0.00	6,359.00	36.4
5770 Capital Equipment	60,000.00	1,553.80	1,553.80	0.00	58,446.20	2.5
5851 Electronic Resources	223,000.00	27,394.10	27,394.10	0.00	195,605.90	12.2
5852 Print Materials	345,000.00	40,498.38	47,871.18	0.00	297,128.82	13.8
5853 Audiovisual Materials	148,500.00	17,471.82	20,771.30	0.00	127,728.70	13.9
5870 Capital Equipment	65,000.00	0.00	0.00	0.00	65,000.00	0.0
5880 Intangible Assets (Software)	43,000.00	4,923.42	4,923.42	0.00	38,076.58	11.4
5910 Transfer For Capital Projects	350,000.00	0.00	0.00	0.00	350,000.00	0.0
Grand Totals	5,766,658.00	332,268.25	934,205.91	0.00	4,832,452.09	16.2

March 21, 2018

Vendor Totals				
Vendor	Number of Invoices	Amount	Retained/Withheld Amount	Total
000011 A & A CASH REGISTER	1	140.00	0.00	140.00
018213 AMAZON CAPITAL SERVICES, INC.	5	402.25	0.00	402.25
000322 AMAZON.COM	1	1,414.17	0.00	1,414.17
000425 ANDERSON ELEVATOR CO	1	240.00	0.00	240.00
000428 ANDERSON'S BOOKS, INC	2	176.60	0.00	176.60
000403 AT&T	1	650.67	0.00	650.67
000672 BAKER & TAYLOR - L0217582	44	16,849.01	0.00	16,849.01
016893 BIBLIOTHECA, LLC	3	41,183.78	0.00	41,183.78
001223 CASE LOTS INC	1	119.40	0.00	119.40
008705 CASH - LIBRARY	1	125.54	0.00	125.54
008323 CENGAGE LEARNING	4	183.93	0.00	183.93
001277 CENTER POINT PUBLISHING	3	357.72	0.00	357.72
002319 CHAMBER630	1	33.00	0.00	33.00
001553 COMCAST CABLE	1	271.31	0.00	271.31
016094 DE LAGE LANDEN FINANCIAL SVC, INC.	1	898.07	0.00	898.07
018349 DEBRA MARGUERITE DUDEK	1	150.00	0.00	150.00
018350 EDGAR GABRIEL, INC.	1	575.00	0.00	575.00
018355 ELGIN CLOCK REPAIR	1	350.00	0.00	350.00
005572 FIA CARD SERVICES, N.A.	11	5,469.63	0.00	5,469.63
002905 FRANCO TYP-POSTALIA, INC.	1	111.00	0.00	111.00
015168 FREDERICKS, JENNIFER	1	38.64	0.00	38.64
013544 GOOGLE, INC.	1	641.66	0.00	641.66

March 21, 2018

Vendor Totals

Vendor	Number of Invoices	Amount	Retained/Withheld Amount	Total
008770 GRAINGER	1	177.47	0.00	177.47
009102 HAGG PRESS INC	1	2,906.00	0.00	2,906.00
003567 ILLINOIS DEPT OF INNOVATION &, TECHNOLOGY	1	152.00	0.00	152.00
003613 ILLINOIS LIBRARY ASSOCIATION	1	20.00	0.00	20.00
003696 INLAND MECHANICAL SERVICE CORP	1	985.00	0.00	985.00
002133 JAKOSZ, DIANE	1	40.65	0.00	40.65
010993 KENT ADHESIVE PRODUCTS COMPANY	1	112.83	0.00	112.83
004812 KLEIN, THORPE AND JENKINS, LTD	1	84.00	0.00	84.00
016764 LAURA DOHERTY	1	450.00	0.00	450.00
009577 LIBRARIESFIRST	2	4,938.00	0.00	4,938.00
005866 MIDWEST TAPE	19	8,988.52	0.00	8,988.52
006161 NICOR GAS	1	1,592.18	0.00	1,592.18
018383 NOODLES THE WONDER DOG TRICK, SHOW	1	300.00	0.00	300.00
017535 OUR DIGITAL WORLD ORGANIZATION	1	1,368.22	0.00	1,368.22
012499 OVERDRIVE, INC.	2	2,383.46	0.00	2,383.46
006361 PADDOCK PUBLICATIONS INC	1	640.60	0.00	640.60
018354 PRAIRIE TECHNOLOGY SOLUTIONS, GROUP LLC	1	7,874.00	0.00	7,874.00
006698 PRINT SMART	2	610.75	0.00	610.75
006716 PROQUEST LLC	1	1,795.00	0.00	1,795.00
006859 R.H. DONNELLEY	1	15.19	0.00	15.19
006944 RECORDED BOOKS, LLC	4	181.48	0.00	181.48
007604 SERVICEMASTER COMMERCIAL CLEAN	1	5,545.00	0.00	5,545.00
007612 SHANES OFFICE SUPPLY CO	4	573.68	0.00	573.68

March 21, 2018

Vendor Totals

Vendor	Number of Invoices	Amount	Retained/Withheld Amount	Total
007861 STEPHENS PLUMBING AND HEATING,	2	576.00	0.00	576.00
014744 TEAM ONE REPAIR, INC.	1	478.80	0.00	478.80
018357 TRAF-SYS, INC.	1	2,890.00	0.00	2,890.00
016841 TSAI FONG BOOKS, INC.	1	170.60	0.00	170.60
018351 U. S. ALLIED PLUMBING & HVAC, LLC	1	975.00	0.00	975.00
011517 UNIQUE MANAGEMENT SERVICES, IN	1	89.50	0.00	89.50
006654 UNITED STATES POSTAL SERVICE	2	6,225.00	0.00	6,225.00
008621 USI, INC	1	39.19	0.00	39.19
Grand Total:	147	123,559.50	0.00	123,559.50

INVOICES OF NOTE

For Library Board Meeting on March 21, 2018

2018 Budget

016893	Bibliotheca, LLC (annual suport & maintenance)	\$41,183.78
018350	Edgar Gabriel, Inc. (Jazz concert)	\$575.00
018355	Elgin Clock Repair (grandfather clock repair)	\$350.00
009102	Hagg Press, Inc. (Discoveries printing)	\$2,906.00
016764	Laura Doherty (family concert)	\$450.00
009577	LibrariesFirst (database renewal)	\$4,938.00
018383	Noodles the Wonder Dog Trick Show (kids program)	\$300.00
017535	Our Digital World Organization (database renewal)	\$1,368.22
018354	Prairie Technology Solutions Group, LLC (upgrade data backup/offsite cloud storage)	\$7,874.00
006716	ProQuest, LLC (Ancestry library)	\$1,795.00
018357	TRAF-SYS Inc. (thermal sensors/patron counters)	\$2,890.00
006654	United States Postal Services (Discoveries postage/permit)	\$6,225.00

Library Credit Card Details for the March 21, 2018 Board Meeting

Julie Milavec

Total \$ -

Katelyn Vabalaitis

971 5210 Supplies	Office supplies, toner	\$	549.19
975 5770 Capital Equipment	ground bar, clamp, copper rings	\$	110.37
		Total \$	659.56

Elizabeth Matkwoski

972 5210 Supplies	Food and supplies for programs	\$	49.39
972 5303 Seminars, Mtgs, & Conferences	LACONI, Airfare to PLA for 2 staff members	\$	681.20
972 5315 Professional Services	Breakout Education access code renewal	\$	60.00
		Total \$	790.59

Sharon Hrycewicz

973 5303 Seminars, Mtgs, & Conferences	Airfare to PLA for 2 staff members	\$	701.22
		Total \$	701.22

Allyson Renell

971 5302 Dues & Membership	ALA Membership	\$	190.00
973 5280 Small Tools & Equipment	Shredder, toy storage, night lights	\$	171.95
973 5303 Seminars, Mtgs, & Conferences	ALA eCourse	\$	157.50
		Total \$	519.45

Traci Skocik

973 5210 Supplies	Program supplies	\$	473.18
973 5210 Supplies	returns/credits	\$	(59.99)
973 5303 Seminars & Meetings	Puppet Store	\$	103.76
973 5852 Printed Materials	Barnes and Noble	\$	35.91
973 5851 Electronic Resources	Blu-ray	\$	18.96
		Total \$	571.82

Christine Lees

974 5210 Supplies	Supplies	\$	88.01
974 5303 Seminar, Mtgs, & Conferences	Retirement party	\$	50.00
		Total \$	138.01

Paul Regis

975 5770 Capital Equipment	Speakers, Virgin Mobile hotspot	\$	208.98
975 5280 Small Tools & Equipment	Memory cards, 3D printer materials	\$	269.59
975 5880 Intangible Assets	Pantheon Systems, printer cartridges	\$	279.27
		Total \$	757.84

Melody Danley

972	5315 Professional Services	Girls Who Code T-Shirts	\$	310.50
976	5407 Advertising & Public Relations	Carabiners for giveaways	\$	290.68
			Total	\$ 601.18

Melissa Fischer

976	5210 Supplies	Google storage, office supplies	\$	51.09
			Total	\$ 51.09

Jen Fredericks

977	5210 Supplies	Amazon Prime renewal, water	\$	117.37
			Total	\$ 117.37

Ian Knorr

978	5280 Small Tools & Equipment	Returns/credits	\$	(11.89)
978	5251 Maintenance Supplies	Vacuum cleaner filter and bags	\$	28.97
978	5470 Other Equipment Repair & Maint	Door hinge security device	\$	340.00
978	5210 Supplies	Paint	\$	204.42
			Total	\$ 561.50
			Library Credit Card March 2018 Totals	\$ 5,469.63

PAYROLLS FOR FEBRUARY 2018

FEBRUARY 2	\$107,217.14
FEBRUARY 16	\$99,592.70
TOTAL FEBRUARY 2018 PAYROLLS	\$206,809.84

**DOWNERS GROVE PUBLIC LIBRARY
BOARD OF TRUSTEES
MARCH 21, 2018**

AGENDA ITEM 8A

Construction Management Contract – Shales McNutt Construction

The construction management contract with Shales McNutt Construction is included in your packet, along with its addenda. The first addendum is the revised AIA contract that deals with subcontractors, along with a rider modifying this standard contract. The second is the Certificate of Insurance required by the contract. John Shales will attend the meeting to answer any questions about the contract and construction management process. The contract has been vetted by Library Attorney Dennis Walsh. The insurance agent for Libraries of Illinois Risk Agency (LIRA) confirmed that a project of this scope is covered in the existing Package Policy, so no additional Builders Risk Policy is necessary.

The fee presented is in 3 parts: lump sum for pre-construction phase, percentage of total cost of construction, and hourly on-site personnel during construction phase. The second two parts of the fee are variable. For the hourly on-site personnel during the construction phase, the architect, construction manager, Facilities Manager, and Library Director will determine the need according to the final project timeline and phasing. John Shales is already working on our behalf with Product Architecture + Design, providing preliminary cost estimating.

I recommend approval of this contract and its addenda.

AIA® Document A134™ – 2009

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price

AGREEMENT made as of the Seventh day of March in the year Two Thousand Eighteen
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status and address)

Board of Trustees of the Downers Grove Public Library
1050 Curtiss Street
Downers Grove, IL 60515

and the Construction Manager:
(Name, legal status and address)

Shales McNutt LLC
425 Renner Drive
Elgin, IL 60123

for the following Project:
(Name and address or location)

Downers Grove Public Library
Interior Renovation

The Architect:
(Name, legal status and address)

Product Architecture
811 Evergreen
Chicago, IL 60642

The Owner's Designated Representative:
(Name, address and other information)

Julie Milavec
1050 Curtiss Street
Downers Grove, IL 60515

The Construction Manager's Designated Representative:
(Name, address and other information)

John Shales
Shales McNutt LLC
425 Renner Drive
Elgin, IL 60123

The Architect's Designated Representative:
(Name, address and other information)

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. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

AIA Document A201™-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

(1249400619)

Tiffany Nash
Product Architecture
811 Evergreen
Chicago, IL 60642

The Owner and Construction Manager agree as follows.

Init.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's approval of the Control Estimate, the Contract Documents will also include the documents described in Section 2.2.4 and revisions prepared by the Architect and furnished by the Owner as described in Section 2.2.5. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern.

§ 1.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner; to furnish efficient construction administration, management services and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 1.3 General Conditions

For the Preconstruction Phase, AIA Document A201™-2007, General Conditions of the Contract for Construction, shall apply only as specifically provided in this Agreement. For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2007, which document is incorporated herein by reference. The term "Contractor" as used in A201-2007 shall mean the Construction Manager.

§ 1.4 Contract Sum, Contract Time and Changes in the Work

The Contract Sum is the actual Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee as defined in Section 5.1. The Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work as certified by the Architect in accordance with Section

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9.8 of AIA Document A201–2007. The Contract Time shall be measured from the date of commencement of the Construction Phase as established pursuant to Section 2.3.1.2 of this Agreement. Changes in the Work shall be governed by Section 5.2 of this Agreement and not by Article 7 of A201–2007. If, however, the Contract Time has been established in accordance with Section 2.2.4.5, Article 7 of A201–2007 shall control adjustments to the Contract Time.

ARTICLE 2 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 2.1 and 2.2. The Construction Manager's Construction Phase responsibilities are set forth in Section 2.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 2.1 Preconstruction Phase

§ 2.1.1 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 2.1.2 Consultation

The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work. The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations consistent with the Project requirements to the Owner and Architect on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 2.1.3 When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Control Estimate; the components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

§ 2.1.4 Phased Construction

The Construction Manager shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, or phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues.

§ 2.1.5 Preliminary Cost Estimates

§ 2.1.5.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume or similar conceptual estimating techniques for the Architect's review and Owner's approval. If the Architect or Construction Manager suggest alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 2.1.5.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design until such time as the Construction Manager submits a Control Estimate for the Work, pursuant to Section 2.2. Such estimates shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect when estimates of the Cost of the Work exceed the latest approved Project budget and make recommendations for corrective action.

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§ 2.1.6 Subcontractors and Suppliers

The Construction Manager shall develop bidders' interest in the Project.

§ 2.1.6.1 Owner is a public library and is required to procure the Work through public bidding and award of the contract(s) for the Work to the lowest responsive and responsible bidder. When the lowest responsive and responsible multiple prime trade bidders (hereinafter referred to as "Subcontractors") are identified, Owner shall assign those trade contracts (the "Subcontracts") to Construction Manager.

§ 2.1.6.2 Construction Manager shall prepare all bid invitations, instructions to bidders, bid forms, form of contract between Construction Manager and Subcontractors, and general and supplemental conditions. These documents shall specify that the work is subject to the Illinois Prevailing Wage Act and will require the filing of certified payroll. Construction Manager shall ensure that the amended A201-2007 general conditions are incorporated into the bid package in the form attached hereto, and that no other provisions of the bid package conflict with them. Drawings and Specifications shall be provided by the Architect. During preparation of the Construction Documents by the Architect, the Construction Manager shall review said Construction Documents to ensure consistency with the bid documents prepared by the Construction Manager.

§ 2.1.6.3 Prior to advertisement for bids, unless the Owner agrees otherwise, Construction Manager shall provide all contractor and subcontract agreements to the Owner's attorneys for review and comment.

§ 2.1.6.4 Construction Manager shall conduct mandatory pre-bid meetings with interested bidders in accordance with publicly announced and scheduled meetings.

§ 2.1.6.5 The owner, with assistance from the Construction Manager, shall receive, open, and read aloud all bids as required by the applicable procurement laws. The Construction Manager shall record all bids, prepare bid analyses, and make recommendations to the Owner for the Owner's award of contracts and/or rejection of bids.

§ 2.1.6.6 The Subcontract documents prepared by Construction Manager shall require full compliance with all state and local laws.

§ 2.1.7 The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered well in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the Owner's approval of the Control Estimate, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the Owner's approval of the Control Estimate, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 2.1.8 Extent of Responsibility

The Construction Manager shall exercise reasonable care in preparing schedules and estimates. The Construction Manager, however, does not warrant or guarantee estimates and schedules, including the Control Estimate and the estimated date of Substantial Completion, except as provided in Section 2.2.4.5. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 2.1.9 Notices and Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi governmental authorities for inclusion in the Contract Documents.

§ 2.1.10 Permits

The Construction Manager shall assist the Owner in obtaining building permits and special permits necessary to carry out and complete the Work, except for permits required to be obtained directly by the various Subcontractors. The Construction Manager shall verify that the Owner has paid all applicable fees. The Construction Manager shall assist the Owner and Architect in connection with the Owner's responsibility for filing documents required for the approvals

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of governmental authorities having jurisdiction over the Project. The Construction Manager shall assist the Owner with scheduling inspections as may be necessary, but is not responsible for inspection services.

§ 2.2 Control Estimate

§ 2.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager and in consultation with the Architect, the Construction Manager shall prepare a Control Estimate for the Owner's review and acceptance. The Control Estimate shall be the sum of the Construction Manager's estimate of the Cost of the Work and the Construction Manager's Fee and shall include those items set forth in Section 2.2.4 below. When the Control Estimate is acceptable to the Owner, the Owner shall acknowledge it in writing.

§ 2.2.2 The Construction Manager shall develop and implement a detailed system of cost control that will provide the Owner and Architect with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner, in writing, no later than the Construction Manager's first Application for Payment and shall be revised and submitted with each Application for Payment.

§ 2.2.3 To the extent that the Drawings and Specifications are anticipated to require further development by the Architect, the Construction Manager shall provide in the Control Estimate for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated in a revised Control Estimate by mutual agreement of the parties.

§ 2.2.4 The Control Estimate shall include

- .1 a list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 a list of the clarifications and assumptions made by the Construction Manager in the preparation of the Control Estimate, including assumptions under Section 2.2.3, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
- .3 a statement of the estimated Cost of the Work organized by trade categories or systems, allowances, and the Construction Manager's Fee;
- .4 the anticipated date of Substantial Completion upon which the Control Estimate is based, and a schedule for the issuance dates of the Construction Documents upon which the anticipated Substantial Completion date relies; and
- .5 a statement as to whether or not the duration from the stated date of commencement of the Construction Phase to the estimated date of Substantial Completion shall become the Contract Time and be subject to the provisions of Article 8 of A201–2007.

§ 2.2.5 The Owner shall authorize the Architect to incorporate the agreed-upon assumptions and clarifications contained in the Control Estimate. The Owner shall promptly furnish those revised Drawings and Specifications to the Construction Manager as they are revised. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Control Estimate and the revised Drawings and Specifications.

§ 2.3 Construction Phase

§ 2.3.1 General

§ 2.3.1.1 For purposes of Section 8.1.2 of A201–2007, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 2.3.1.2 The Construction Phase shall commence upon the Owner's approval of the Control Estimate or the Owner's issuance of a Notice to Proceed, whichever occurs earlier.

§ 2.3.1.3 Prior to commencement of the Construction Phase, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work.

§ 2.3.2 Administration

(Paragraph deleted)

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§ 2.3.2.1.1 The construction work on the Project shall be completed by Subcontractors except as otherwise permitted by this Agreement. The Construction Manager shall obtain bids from prime trade contractors and suppliers of materials or equipment in accordance with state law and will deliver the bids to the Architect. The Owner shall determine, with the advice of the Construction Manager and the Architect, which bids will be accepted. The Owner shall not award a contract to an entity that is not the lowest responsible bidder and may reject all bids.

§ 2.3.2.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement. As part of the payment application process, the Construction Manager shall ensure each Subcontractor's compliance with the certified payroll requirements of the Prevailing Wage Act and shall accept and maintain each required filing of certified payroll on behalf of the Owner. The Construction Manager shall prepare and maintain certified payroll for work performed with its own forces. The Construction Manager shall prepare Change Requests and Change Orders for the Architect's and Owner's approval and execution in accordance with the Contract Documents.

§ 2.3.2.3 If the Construction Manager recommends a specific bidder that may be considered a "related party" according to Section 6.10, then the Construction Manager shall promptly notify the Owner in writing of such relationship and notify the Owner of the specific nature of the contemplated transaction, according to Section 6.10.2.

§ 2.3.2.4 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes to the Owner and Architect.

§ 2.3.2.5 Upon the Owner's approval of the Control Estimate, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and submittal schedule in accordance with Section 3.10 of A201-2007.

§ 2.3.2.6 The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner. The Construction Manager shall also keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the Work, accidents, injuries, and other information required by the Owner.

§ 2.4 Professional Services

Section 3.12.10 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.5 Hazardous Materials

Section 10.3 of A201-2007 shall apply to both the Preconstruction and Construction Phases.

§ 2.6 Subcontractors' Insurance and Bonds

Construction Manager shall procure Certificates of Insurance, as well as Performance and Payment Bonds, for each of the Subcontractors immediately upon award of the Subcontract and verify conformance of same with the Contract Documents prior to allowing the Subcontractors onto the Site. Insurance of Subcontractors shall name Owner, Construction Manager, and Architect as "Additional Insureds". Copies of same shall be transmitted to the Owner and Architect before Subcontractors may commence Work on the Project.

§ 2.7 Performance and Payment Bonds

Construction Manager shall obtain payment and performance bonds from all Subcontractors for 100% of the cost of their work in accordance with Article 11 of the A201 General Conditions. Construction Manager shall not be required to obtain a performance and payment bond as they are not self-performing any construction-related work. The Subcontractors payment and performance bonds shall name the Owner as dual Obligatee.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 Information and Services Required of the Owner

§ 3.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems sustainability and site requirements.

§ 3.1.2 Prior to the Owner's approval of the Control Estimate, or within seven days of receiving the Owner's written acknowledgment required by Section 2.2.1, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Construction Manager may only request such evidence if (1) the Owner fails to make payments to the Construction Manager as the Contract Documents require, (2) a change in the Work materially changes the Contract Sum, or (3) the Construction Manager identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Construction Manager and Architect.

§ 3.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

§ 3.1.4 **Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 3.1.4.1 The Owner shall furnish tests, inspections and reports required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 3.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 3.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.1.4.4 During the Construction Phase, 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 Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 3.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid

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unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2007, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative. The Owner's representative shall act as the liaison between the Board of Library Trustees of the Village of Downers Grove and the Construction Manager and shall have authority pursuant to the authority delegated by the Board. This designation is being made for the purposes of facilitating the administrative and day-to-day management issues relating to the Project. In dealing with the Designated Representative, the Construction Manager acknowledges that the Owner is an Illinois public body that can only be contractually bound by an affirmative vote of the Board of Trustees of the Village of Downers Grove. The Owner shall not unreasonably delay its vote to approve or disapprove necessary items in relation to the Construction Manager's duties in relation to this Project.

§ 3.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 3.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B101™–2007, Standard Form of Agreement Between Owner and Architect, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager a copy of the executed agreement between the Owner and the Architect, and any further modifications to the agreement.

ARTICLE 4 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 4.1 Compensation

§ 4.1.1 For the Construction Manager's Preconstruction Phase services, the Owner shall compensate the Construction Manager as follows:

§ 4.1.2 For the Construction Manager's Preconstruction Phase services described in Sections 2.1 and 2.2:

(Paragraph deleted)

A Lump Sum of Eight Thousand Dollars and 00/100 (\$8,000.00)

§ 4.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within Seven (7) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 4.1.4 Compensation based on Direct Personnel Expense includes the direct salaries of the Construction Manager's personnel providing Preconstruction Phase services and the Construction Manager's costs for the mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

§ 4.2 Payments

§ 4.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 4.2.2 Payments are due and payable

(Paragraphs deleted)

in accordance with the Local Government Prompt Payment Act.

ARTICLE 5 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 5.1 For the Construction Manager's performance of the Work as described in Section 2.3, the Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Section 6.1.1 plus the Construction Manager's Fee.

§ 5.1.1 The Construction Manager's Fee:

(Paragraph deleted)

For general overhead and profit, 4.5% of the Cost of the Work plus, for the Construction Manager's standard general liability insurance coverage, 0.75% of the Cost of the Work.

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§ 5.1.2 The method of adjustment of the Construction Manager's Fee for changes in the Work:

The Construction Manager's fee for general overhead and profit shall be fixed as a lump sum at the time Subcontractor bids are approved by the Owner. The Construction Manager's lump sum fee for general overhead and profit will not change with changes in the Work unless the cumulative value of the changes in the Work exceeds 15% of the Cost of the Work at the time the fee was calculated. If the changes in the Work result in a reduction of the Cost of the Work by more than 15%, the Construction Manager's lump sum fee for general overhead and profit will be reduced in the same manner and calculated in accordance with Section 5.1.1 above.

§ 5.1.3 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Construction Manager shall negotiate reasonable Subcontractor overhead and profit mark up for increases in the cost of its portion of the Work.

§ 5.1.4 Rental rates for Construction Manager-owned equipment shall not exceed one hundred five percent (105 %) of the standard rate paid at the place of the Project.

§ 5.1.5 Unit prices, if any:

Bond expense: If the Owner requires Construction Manager to provide a performance and payment bond for 100% of the value of the work in addition to the subcontractor performance and payment bonds, the bond expense will be paid by the Owner at the actual cost of the bond.

§ 5.2 Changes in the Work

§ 5.2.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Architect may make minor changes in the Work as provided in Section 7.4 of AIA Document A201-2007, General Conditions of the Contract for Construction. The Construction Manager shall be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work. The Construction Manager shall incorporate all changes in the Work and Contract Time as separate entries in the Control Estimate.

§ 5.2.2 Increased or decreased costs for the items set forth in Sections 6.1 through 6.7 that result from changes in the Work shall become part of the Cost of the Work, and the Construction Manager's Fee shall be adjusted as provided in Section 5.1.2.

§ 5.2.3 If the Construction Manager receives any Drawings, Specifications, interpretations or instructions from the Owner or Architect which are inconsistent with the Contract Documents, or encounters unanticipated conditions, any of which will result in a significant change in the Cost of the Work or estimated date of Substantial Completion in comparison with the Control Estimate, the Construction Manager shall promptly notify the Owner and Architect in writing and shall not proceed with the affected Work until the Construction Manager receives further written instructions from the Owner and Architect.

(Paragraph deleted)

ARTICLE 6 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 6.1 Costs to Be Reimbursed

§ 6.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior written consent of the Owner. The Cost of the Work shall include only the items set forth in Sections 6.1 through 6.7.

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§ 6.1.2 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost.

§ 6.2 Labor Costs

§ 6.2.1 Wages of laborers directly employed by the Construction Manager to perform clean-up or other work for which a deductive change order will be issued to a Subcontractor. This work is limited to clean-up or other minor change orders, and Construction Manager will not perform any trade work. All laborers shall be paid prevailing wage in accordance with state law.

§ 6.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site with the Owner's prior approval.

(If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal or other offices shall be included in the Cost of the Work, identify in Section 11.5, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

§ 6.2.3 Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or on the road, or at the Construction Manager's principal office in expediting and coordinating the work and the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 6.2.4 Costs paid or incurred by the Construction Manager for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 6.2.1 through 6.2.3.

(Paragraph deleted)

§ 6.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts.

§ 6.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 6.4.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ 6.4.2 Costs of materials described in the preceding Section 6.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 6.5.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 6.5.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Construction Manager-owned item may not exceed the purchase price of any comparable item. Rates of Construction Manager-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

§ 6.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

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§ 6.5.4 Costs of document reproductions, facsimile transmissions postage and parcel delivery charges, telephone service at the site and reasonable petty cash expenses of the site office.

§ 6.5.5 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 6.5.6 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 6.6 Miscellaneous Costs

§ 6.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. Self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 6.6.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Construction Manager is liable.

§ 6.6.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Construction Manager is required by the Contract Documents to pay.

§ 6.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 13.5.3 of AIA Document A201-2007 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 6.7.3.

§ 6.6.5 Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims and payments of settlements made with the Owner's consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Construction Manager's Fee. If such royalties, fees and costs are excluded by the last sentence of Section 3.17 of AIA Document A201-2007 or other provisions of the Contract Documents, then they shall not be included in the Cost of the Work.

(Paragraph deleted)

§ 6.6.7 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

(Paragraphs deleted)

§ 6.7 Other Costs and Emergencies

§ 6.7.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.

§ 6.7.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 10.4 of AIA Document A201-2007.

§ 6.7.3 Costs of repairing or correcting damaged Work executed by the Subcontractors or suppliers, provided that such damaged Work was not caused by negligence or failure to fulfill a specific responsibility of the Construction Manager and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 6.7.4 The costs described in Sections 6.1 through 6.7 shall be included in the Cost of the Work notwithstanding any provision of AIA Document A201-2007 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 6.8.

§ 6.8 Costs Not to Be Reimbursed

§ 6.8.1 The Cost of the Work shall not include the items listed below:

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- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 6.2, or as may be provided in Article 11;
- .2 Expenses of the Construction Manager's principal office and offices other than the site office;
- .3 Overhead and general expenses, except as may be expressly included in Sections 6.1 through 6.7;
- .4 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .5 Except as provided in Section 6.7.3 of this Agreement, costs due to the negligence or failure of the Construction Manager, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
- .6 Any cost not specifically and expressly described in Sections 6.1 through 6.7; and
- .7 Costs for services incurred during the Preconstruction Phase.

§ 6.9 Discounts, Rebates and Refunds

§ 6.9.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 6.9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 6.9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ 6.10 Related Party Transactions

§ 6.10.1 For purposes of Section 6.10, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Construction Manager; any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" includes any member of the immediate family of any person identified above.

§ 6.10.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3. If the Owner fails to authorize the transaction, the Construction Manager shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Sections 2.3.2.1, 2.3.2.2 and 2.3.2.3.

§ 6.11 Accounting Records

The Construction Manager shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 7 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 7.1 Progress Payments

§ 7.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Construction Manager as provided below and elsewhere in the Contract Documents.

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§ 7.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 7.1.3 Payments under this contract are subject to the Illinois Local Government Prompt Payment Act. The Library Trustees meet on the fourth Wednesday of each month. Pay applications approved by the Architect and received no later than seven (7) business days prior to the Trustees meeting will be placed on the agenda of the upcoming meeting for action. Approved pay applications received after this monthly benchmark shall be placed on the next month's meeting agenda for action.

(Federal, state or local laws may require payment within a certain period of time.)

§ 7.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, less that portion of those payments attributable to the Construction Manager's Fee, plus payrolls for the period covered by the present Application for Payment.

§ 7.1.5 Applications for Payment shall show the Cost of the Work actually incurred by the Construction Manager through the end of the period covered by the Application for Payment and for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment.

§ 7.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Cost of the Work as described in Section 6.1.1 less retainage of 10%;
- .2 Add the Construction Manager's Fee. The Construction Manager's Fee shall be computed upon the Cost of the Work described in the preceding Section 7.1.6.1 at the rate stated in Section 5.1.1; or if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract retainage of ten percent (10 %) from that portion of the Work that the Construction Manager self-performs;
- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by Section 7.1.4 or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Subtract amounts, if any, for which the Architect has withheld or withdrawn a Certificate for Payment as provided in the Contract Documents.

§ 7.1.7 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 7.1.8 Except with the Owner's prior approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 7.1.9 In taking action on the Construction Manager's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 7.1.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits and

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verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 7.2 Final Payment

§ 7.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract except for the Construction Manager's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect.

The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 7.2.2 The Owner's auditors will review and report in writing on the Construction Manager's final accounting within 30 days after delivery of the final accounting to the Architect by the Construction Manager. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Construction Manager's final accounting, and provided the other conditions of Section 7.2.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.5.1 of the AIA Document A201-2007. The time periods stated in this Section supersede those stated in Section 9.4.1 of the AIA Document A201-2007. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 7.2.3 If the Owner's auditors report the Cost of the Work as substantiated by the Construction Manager's final accounting to be less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 15.2 of A201-2007. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 7.2.4 If, subsequent to final payment and at the Owner's request, the Construction Manager incurs costs described in Section 6.1.1 and not excluded by Section 6.8 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager such costs and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment.

ARTICLE 8 INSURANCE AND BONDS

For all phases of the Project, the Construction Manager and the Owner shall purchase and maintain insurance, and the Construction Manager shall provide Subcontractor's bonds in an amount equal to 100% of the Cost of the Work as set forth in Article 11 of AIA Document A201-2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)

Type of Insurance or Bond

See Attachment A – Construction
Manager's Standard Insurance Coverage
Certificate

Limit of Liability or Bond Amount (\$0.00)

ARTICLE 9 DISPUTE RESOLUTION

§ 9.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 9 and Article 15 of A201-2007. However, for Claims arising from or relating to the Construction

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Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 9.3 of this Agreement shall not apply.

§ 9.2 For any Claim subject to, but not resolved by mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

(Check the appropriate box. If the Owner and Construction Manager do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

☐ Arbitration pursuant to Section 15.4 of AIA Document A201–2007

☒ Litigation in a court of competent jurisdiction

☐ Other: *(Specify)*

§ 9.3 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007 for Claims arising from or relating to the Construction Manager's Construction Phase

(Paragraphs deleted)

services..

ARTICLE 10 TERMINATION OR SUSPENSION

§ 10.1 Termination Prior to Owner's Approval of the Control Estimate

§ 10.1.1 Prior to the Owner's approval of the Control Estimate, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Section 14.1.1 of A201–2007.

§ 10.1.2 In the event of termination of this Agreement pursuant to Section 10.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 4.1.

§ 10.1.3 In the event of termination of this Agreement pursuant to Section 10.1.1, after the commencement of the Construction Phase but prior to the Owner's approval of the Control Estimate, the Owner shall pay to the Construction Manager under Section 10.1.2 an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 10.1.2:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager which the Owner elects to retain and which is not otherwise included in the Cost of the Work under Section 10.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 10, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

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If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 10.2 Termination Subsequent to the Owner's Approval of the Control Estimate

§ 10.2.1 Subsequent to the Owner's approval of the Control Estimate, the Contract may be terminated as provided in Sections 14.1.1, 14.1.2 and 14.2.1 of A201–2007. The provisions of Article 14 of A201–2007 do not otherwise apply to this Section 10.2.

§ 10.2.2 In the event of such termination by the Owner, the amount payable to the Construction Manager shall not exceed the amount the Construction Manager would have been entitled to receive pursuant to Sections 10.1.2 and 10.1.3 of this Agreement, less any compensation that may be awarded to the Owner pursuant to Article 9.

§ 10.2.3 In the event of such termination by the Construction Manager, the amount payable to the Construction Manager shall be in accordance with Sections 10.1.2 and 10.1.3 of this Agreement.

§ 10.2.4 In addition to the Owner's right to terminate this Agreement for cause as provided in Section 14.2.1 of A201–2007, the Owner may terminate this Agreement for convenience as provided in Section 14.4; however, the Owner shall then only pay the Construction Manager an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner.

§ 10.3 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007. In such case, the Control Estimate and Contract Time shall be increased as provided in Section 14.3.2 of AIA Document A201–2007, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 5.1 and 5.2.4 of this Agreement.

§ 10.4 Force Majeure

Neither party shall be liable for failing to perform obligations arising under this Agreement to the extent such failure is caused by fire, flood, earthquake, hurricane or another natural disaster, an act of God, war invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electricity or telephone service.

ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 Terms in this Agreement shall have the same meaning as those in A201–2007 as amended.

§ 11.2 Ownership and Use of Documents

Section 1.5 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.3 Governing Law

Section 13.1 of A201–2007 shall apply to both the Preconstruction and Construction Phases.

§ 11.4 Assignment

The Owner and Construction Manager, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Construction Manager shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement. Except as provided in Section 13.2.2 of A201-2007, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 11.5 Other provisions:

§ 11.5.1 The following rates for Supervisory and Administration personnel until December 31, 2018, whether located at the project site or at Construction Manager's principal office, will be used to calculate the required staffing expense to properly manage the project. This expense will be converted to a lump sum at the time Subcontractor bids are approved by the Owner and billed on a prorated basis during the construction phase.

Project Executive \$136/Hr

Project Manager \$131/Hr

Project Superintendent (Full time) \$125/Hr

Asst. Project Manager \$98/hr.

Contract Administrator \$85/Hr

These rates are expected to increase 4% each year on January 1, thereafter.

Section 11.6: Prevailing Wage:

It is hereby stipulated that the Construction Manager and each Subcontractor shall pay not less than the prevailing hourly rate of wages, and the generally prevailing rate of hourly wages for legal holiday and overtime work, as determined by the Illinois Department of Labor and as set forth in the schedule of prevailing wages appended to the instructions to bidders for this contract to all laborers, workers, and mechanics performing work under this contract. All bonds provided by the Construction Manager for this project shall include such provisions as will guarantee the faithful performance of the Construction Manager and each Subcontractor's obligations under this clause and under the Prevailing Wage Act, 820 ILCS 130/1. et. seq. Should the Department of Labor revise any prevailing rate of hourly wages, such revised rate shall be applicable to this contract; however, in no event shall the increase in any prevailing rate of hourly wages be a basis for a change order or other claim for an increase in the Contract Sum. Construction Manager and each Subcontractor shall be required to comply with the certified payroll requirements of the Prevailing Wage Act.

The Construction Manager shall additionally include the above paragraph in all solicitations for bids for this project, along with a current schedule of prevailing wages.

11.7 Requisite Circumstances For Change Orders

No change orders shall be issued for the work under this contract which authorize or necessitate an increase or decrease in the cost of the contract by a total of \$10,000 or more or in the time of completion by a total of thirty (30) days or more unless a written determination is made by the owner or a duly authorized designee of the owner other than the architect that:

1. The circumstances said to necessitate the change in performance were not reasonably foreseeable the time this contract was signed; or
2. The change is germane to the original contract as signed; or
3. The change order is in the best interest of the owner and is authorized by law.

11.8 Schedule of Values

Construction Manager and each Subcontractor acknowledges that owner is a tax exempt entity under the laws of the State of Illinois and that Owner shall, as part of its undertakings under this contract, provide to the contractor all certificates of exemptions and tax exempt numbers needed to entitle contractor to purchase material and other items to be used on the work or incorporated into the work on a tax exempt basis, said exemptions specifically to include but

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not be limited to the "Illinois Retailer's Occupation Tax" (sales tax). Construction Manager shall warrant that all material costs and scheduled values have been calculated so as to give Owner its full benefit of its tax-exempt status, and Construction Manager shall require that all subcontracts include a requirement that subcontractors purchase materials so as to give Owner the full benefit of its tax exempt status. Owner shall not be liable for, and shall be entitled to a credit against the contract sum for, any sales tax paid by Construction Manager or any subcontractor of any tier which is shown to have been charged to owner as part of the contract sum, as a component of the schedule of values, as a unit price, or otherwise.

11.9: Human Rights Act:

Construction Manager hereby agrees that this contract shall be performed in compliance with all requirements of the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., and that the contractor and its subcontractors shall not engage in any prohibited form of discrimination in employment as defined in that act. The Construction Manager and each Subcontractor shall maintain, policies of equal employment opportunity which shall prohibit discrimination against any employee or applicant for employment on the basis of race, religion, color, sex, national origin, ancestry, citizenship status, age, marital status, physical or mental disability unrelated to the individual's ability to perform the essential functions of the job, association with a person with a disability, or unfavorable discharge from military service. Construction Manager and each Subcontractor shall comply with all requirements of the Act and of the Rules of the Illinois Department of Human Rights with regard to posting information on employees' rights under the Act. Construction Manager and each Subcontractor shall place appropriate statements identifying their companies as equal opportunity employers in all advertisements for workers to be employed in work to be performed under this contract.

11.10: Sexual Harassment Policy:

Pursuant to Section 2-105 (A)(4) of the Illinois Human Rights Act, the contractor and each subcontractor shall adopt and maintain written sexual harassment policies that shall include, at a minimum, the following information:

- (1) the illegality of sexual harassment;
- (2) the definition of sexual harassment under state law;
- (3) a description of sexual harassment, utilizing examples;
- (4) the contractor/subcontractor's internal complaint process, including penalties;
- (5) the legal recourse, investigative and complaint process available through the Department and Commission (of Human Rights);
- (6) directions on how to contact the Department and the Commission; and
- (7) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act.

A copy of these policies shall be provided to the owner or the architect on request.

11.11: Notices

Any notice, communication, requests, reply, advice, report of designation (hereinafter severally and collectively called 'notice') in this Agreement provided or permitted to be given, made or accepted by either party to the other shall be in writing unless otherwise provided herein and shall be given or be served by depositing the same in the United States mail, addressed to the party to be notified, postage prepaid, by delivering the same in person to such party or by facsimile or e-mail communication. Notice deposited in the mail in the manner hereinabove described shall be effective upon receipt. For purposes of notice, the addresses of the parties shall, until changed as hereinafter provided, be as follows:

If to Owner: Downers Grove Public Library
1050 Curtiss Street
Downers Grove, IL 60515
Attn: Julie Milavec
e-mail: jmilavec@dglibrary.org

If to Construction Manager:
Shales McNutt LLC
425 Renner Drive
Elgin, IL 60123

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Attn: John Shales
e-mail: johnshales@shalesmcnutt.com

or at any other address as either party may have advised the other in writing.

ARTICLE 12 SCOPE OF THE AGREEMENT

§ 12.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 12.2 The following documents comprise the Agreement:

- .1 AIA Document A134–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price
- .2 AIA Document A201–2007, General Conditions of the Contract for Construction

(Paragraphs deleted)

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*

CONSTRUCTION MANAGER *(Signature)*

(Printed name and title)

John M. Shales, President
(Printed name and title)

Init.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/5/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lundstrom Insurance 2205 Point Blvd., Ste 200 Elgin IL 60123		CONTACT NAME: PHONE (A/C, No, Ext): 847-741-1000 FAX (A/C, No): 847-428-8857 E-MAIL ADDRESS: certificates@lundstrominsurance.com	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: Cincinnati Insurance	10677
INSURED Shales McNutt, LLC 425 Renner Drive Elgin IL 60123		INSURER B: Cincinnati Indemnity Company	23280
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES**CERTIFICATE NUMBER:** 1098059299**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	Y	EPP0139395	7/1/2017	7/1/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			EPP0139395	7/1/2017	7/1/2018	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0			EPP0139395	7/1/2017	7/1/2018	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	EWC 0337999	7/1/2017	7/1/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Downers Grove Public Library Interior Renovation.

If required by written contract, the following are Additional Insureds on a Primary and Non-Contributory basis and a Waiver of Subrogation applies with respect to the General Liability:

- 1) Board of Trustees of the Downers Grove Public Library
- 2) Product Architecture

CERTIFICATE HOLDER**CANCELLATION**Board of Trustees of the Downers Grove Public Library
1050 Curtiss Street
Downers Grove IL 60515

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AIA® Document A201™ – 2007

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Downers Grove Public Library
Main Facility Renovation
1050 Curtiss Street
Downers Grove, IL 60515

THE OWNER:

(Name, legal status and address)

Board of Trustees of the Downers Grove Public Library
1050 Curtiss Street
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THE ARCHITECT:

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Product Architecture
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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. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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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 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 and certify termination of the Agreement under Section 14.2.2.

§ 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.

§ 1.2.2 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.

§ 1.3 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 will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment 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 this 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 material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them 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 material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

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.

§ 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 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or

the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.2 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.

§ 2.2.3 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.2.4 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.

§ 2.2.5 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.

§ 2.3 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, except to the extent required by Section 6.1.3.

§ 2.4 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 written 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 deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor 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. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

§ 3.1.1 The Contractor 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. 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.

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

§ 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.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 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 make 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 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.

§ 3.3 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, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and 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 written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required 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.

§ 3.4 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 authorized by the Architect in accordance with Sections 3.12.8 or 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.

§ 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

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.

§ 3.6 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.

§ 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.

§ 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.

§ 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 21 days after first observance of the conditions. The 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 an equitable adjustment 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 in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

§ 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 Article 15.

§ 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.

§ 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.

§ 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 furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. Failure of the Architect to reply 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.

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

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

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's approval. The Architect's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a 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.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 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 the way by which 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 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.

§ 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 requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing 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 written 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. 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 cause such services or certifications to be provided by a properly 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, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, 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. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.13 USE OF SITE

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

§ 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 and patching shall be restored to the condition existing prior to the cutting, fitting and 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 such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's 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 or 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 Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 ACCESS TO WORK

The Contractor shall provide the Owner and Architect 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 such 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 the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the 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 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 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.

§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 If the employment of the Architect is terminated, the Owner shall employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of 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, except as provided in Section 3.3.1.

§ 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 report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) 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 FACILITATING CONTRACT ADMINISTRATION

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 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 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment 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, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize 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 duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 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. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 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 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 or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 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 previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, 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, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor 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. 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 for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; 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, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

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 Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 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 other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the 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 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

§ 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 report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report 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, except as to defects not then reasonably discoverable.

§ 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 the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors 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.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; 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.

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

§ 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 7.3.7.

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

§ 7.3.5 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.

§ 7.3.6 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.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and 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 7.3.7 shall be limited to the following:

- .1** Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .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 related to the Work; and
- .5** Additional costs of supervision and field office personnel directly attributable to the change.

§ 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.

§ 7.4 MINOR CHANGES IN THE WORK

The Architect has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

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, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 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 an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation and arbitration; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

§ 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.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 CONTRACT SUM

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.

§ 9.2 SCHEDULE OF VALUES

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 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. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material 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 material 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, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part 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 comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. 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. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. 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 material 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, 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 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.

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

§ 9.5.3 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 material or equipment suppliers 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, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

§ 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 material and equipment 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 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, except as may otherwise be required by law.

§ 9.6.5 Contractor payments to material and equipment 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 and 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, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.7 FAILURE OF PAYMENT

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' written notice to the Owner and Architect,

stop the Work until payment of the 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 costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

§ 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.

§ 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 the Architect's 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, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. 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, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 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 such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such 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 as required under Section 11.3.1.5 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 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 Architect.

§ 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.

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§ 9.10.1 Upon receipt of the Contractor's written 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 and, 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 terms and conditions of 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 the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, 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. If such lien 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 such lien, 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 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 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 constitute a waiver of Claims by the Owner except those arising from

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

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material 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.

§ 10.2 SAFETY OF PERSONS AND PROPERTY

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

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

§ 10.2.2 The Contractor shall 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.

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

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

§ 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, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under 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, written notice of such 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.

§ 10.3 HAZARDOUS MATERIALS

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. 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 report the condition to the Owner and Architect in writing.

§ 10.3.2 Upon receipt of the Contractor's written 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 such material or substance or who are to perform the task of removal or safe containment of such 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 in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work 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, 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), 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 Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances 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 indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance 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 indemnify 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.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 CONTRACTOR'S LIABILITY INSURANCE

§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction

of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.2 OWNER'S LIABILITY INSURANCE

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 11.3 PROPERTY INSURANCE

§ 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

§ 11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance that will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

§ 11.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ 11.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.3.1.5 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or

otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

§ 11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

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

§ 11.3.5 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, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

§ 11.3.7 WAIVERS OF SUBROGATION

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, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, 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 covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.8 A loss insured under the Owner's property insurance 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 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the

Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND

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

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

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 Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after 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 an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

§ 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.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

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

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors 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 except that, 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 such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 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 such assignment.

§ 13.3 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 13.4 RIGHTS AND REMEDIES

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

§ 13.4.2 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 there under, except as may be specifically agreed in writing.

§ 13.5 TESTS AND INSPECTIONS

§ 13.5.1 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 (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 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.

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

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

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

§ 13.6 INTEREST

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may 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.

§ 13.7 TIME LIMITS ON CLAIMS

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time 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 13.7.

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 for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;

- .3 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
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, 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' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor 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' written 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 for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

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

- .1 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.

§ 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.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. 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 written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

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, or other relief with respect to the terms of the Contract. 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.

§ 15.1.2 NOTICE OF CLAIMS

Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3 CONTINUING CONTRACT PERFORMANCE

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. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

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

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

§ 15.1.5.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein 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.

§ 15.1.5.2 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.

§ 15.1.6 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 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 INITIAL DECISION

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, 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 arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no 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 such 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 an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, 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 15.1.6 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 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. 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 Either party, at its sole discretion, 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 Either party, at its sole discretion, 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 the Owner and Contractor under this Agreement.

**RIDER TO THE GENERAL CONDITIONS OF THE CONTRACT FOR
CONSTRUCTION BETWEEN THE BOARD OF LIBRARY TRUSTEES OF
THE DOWNERS GROVE PUBLIC LIBRARY (THE "OWNER") AND
SHALES McNUTT, L.L.C. (THE "CONTRACTOR") DATED _____**

The following provisions, notwithstanding any provisions to the contrary in AIA Document A201, 2007 Edition, amend and replace the terms of the General Conditions of the Contract for Construction, between Owner and Contractor and any provisions in the sections as numbered below which are in conflict with or inconsistent with any of the same provisions in said General Conditions, the provisions in said General Conditions shall be void to the extent of such conflict or inconsistency and the terms of this Rider shall control. Where any provision of the General Conditions is modified or deleted by this Rider, the unaltered portions of those provisions shall remain in effect. All references to "Construction Manager" contained herein shall also mean "Contractor" as defined above to mean Shales McNutt, L.L.C.

ARTICLE 1. GENERAL PROVISIONS

1.1 Basic Definitions

1.1.1 At the end of the paragraph add the following sentence:

"Also included as part of the Contract Documents are the following documents: Invitation to Bid, Instructions to Bidders, Contractor's Bid Proposal as it conforms to the Owner's bid package, the Standard Form of Agreement Between Owner and Construction Manager as Constructor, AIA Document A133/CMc, 2009 Edition (as modified); (2) Owner's Rider to the Standard Form of Agreement; the General Conditions of the Contract for Construction, AIA Document A201, 2007 Edition (as modified); Owner's Rider to the General Conditions of the Contract for Construction; required Performance and Payment Bonds; Certificate of Eligibility to Enter into Public Contract; and required insurance certificates."

1.1.1.1 Add a new Section 1.1.1.1 which shall read in its entirety as follows:

"This Agreement form has been selected to reflect the Contractor's role for pre-construction services and overall responsibility for the Project and timeliness of completion. It does not authorize the Contractor to self-perform any trade work, and this Agreement has been modified accordingly."

1.1.2 The Contract

1.1.2 Delete the last sentence of this section.

ARTICLE 2. OWNER

2.1 General

2.1.1 Delete the second sentence in Section 2.1.1 which reads as follows:

“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.” And replace the following: “The Director of the Downers Grove Public Library or her designee shall be designated as the Library’s liaison between the Board of Library Trustees of the Village of Downers Grove and the Contractor. This designation is being made for purposes of facilitating the administrative and day-to-day management issues relating to the Project. In dealing with the Owner’s liaison, the Contractor acknowledges that the Owner is an Illinois public body that can only be bound by an affirmative vote of the Board of Library Trustees of the Village of Downers Grove. The Owner agrees to not unreasonably delay its vote to approve or disapprove necessary items in relation to the completion of the Project.”

2.1.2 In the second line, at the end of the first sentence, insert the following new sentence:

“Owner is a public body and, as such, mechanics’ liens may be filed only against public funds and not against public property.” and delete the remainder of the paragraph.

2.2 Information and Services Required of the Owner

2.2.1 Delete this Section 2.2.1 in its entirety.

2.2.3 In the second line of Section 2.2.3, after the word “entitled to,” insert the word “reasonably.”

2.3 Owner's Right to Stop the Work

2.3 In the fifth line, insert a period after the word, "entity." Delete the remainder of the sentence and substitute the following:

"The exercise of this right shall not be construed as placing the Owner in charge of the Work or making the Owner responsible for site safety."

ARTICLE 3. CONTRACTOR

3.4 Labor and Materials

3.4.0 Insert the following new Subsection:

“3.4.0 The Contractor and all Subcontractors and their Subcontractors of any tier shall pay to all laborers, workman and mechanics performing work under the Contract, where applicable, not less than the prevailing rate of wages determined by the Illinois Department of Labor in accordance with the Prevailing Wage Act (820 ILCS 130/1 *et seq.*). It is the Contractor's sole responsibility and duty to insure that any revision in the prevailing wage rates during the course of the Project will be reflected in payment from the Contractor and each Prime Contractor or any Subcontractor of any tier to each worker where the change is applicable. Contractor and Subcontractors shall comply with all applicable provisions of this Act, including providing certified payrolls to the Owner.

The Library has adopted the prevailing wages as determined by the Illinois Department of Labor (“IDOL”) for DuPage County, effective June 1, 2017, as revised. The prevailing rate of wages are revised by the IDOL and are available on the IDOL website, www.state.il.us/agency/idol. The Construction Manager, Prime Trade Contractors and all subcontractors are responsible for checking the Department’s website for revisions to prevailing wage rates. In the event that the IDOL should revise the prevailing rate of wages, then the revised rates shall apply to this Contract. In no case shall any revision in the rates of prevailing wages result in an increase in the total Contract price.

The Contractor is also required to submit certified payroll no later than the tenth day of each calendar month in a manner that is compliant with the Prevailing Wage Act.

The Construction Manager shall additionally include the above paragraphs in all solicitations for bids for this project, along with a current schedule of prevailing wages.”

3.5 Warranty

In the fourth line, delete the phrase, "except those inherent in the quality of the Work the Contract Documents require or permit" and insert in its place the following:

"in material and workmanship for one (1) year from the date of issuance of final payment by the Owner and deficiencies shall be corrected in accordance with Section 12.2.2.1."

In the fourth line, after the word “permit.” insert the following new sentence:

“Such warranty does not preclude the Owner’s right to bring an action for breach of this Contract.”

Insert the following at the end of the paragraph:

"The Contractor shall have an obligation to inform the Owner of known deficiencies or inconsistencies in the materials planned to be used during the course of construction."

3.6 Taxes

Delete Section 3.6 in its entirety and insert the following: "The Owner is exempt from federal, state and local sales and excise taxes because it is a public body. Contractor shall not charge Owner for such taxes."

3.7 Permits, Fees, Notices, and Compliance with Laws

3.7.2 Add the following at the end of this section, "including, but not limited to, those pertaining to hazardous materials, and the following:

- .1 Provide a drug free workplace pursuant to the Illinois Drug Free Workplace Act (30 ILCS 580/1, et seq.);
- .2 Comply with the Illinois Public Works Employment Discrimination Act (775 ILCS 10/1 et seq.);
- .3 Comply with Article 2 of the Illinois Human Rights Act (775 ILCS 5/2 101, et seq.), and the Rules and Regulations of the Illinois Department of Human Rights, including establishment and maintenance of a sexual harassment policy as required by Section 2 105 of that Article and Act, as further described in Section 13.9 of this Agreement;
- .4 Comply with the Americans with Disabilities Act (except that Contractor shall no obligation for noncompliant design);
- .5 Comply with the Illinois Prevailing Wage Act (820 ILCS 130/1 et seq.); and
- .6 Comply with the requirements of the Illinois Human Rights Act."

3.7.3 Delete Section 3.7.3 in its entirety and replace with the following language:

"It is not the Contractor's responsibility to ascertain that the Contract Documents prepared by the Architect are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor performs Work knowing it to be contrary to applicable law, statutes, ordinances, rules and regulations, or lawful orders of public authorities, or if the Contractor should have reasonably recognized, within construction industry standards, that such Work was performed contrary to applicable laws, statutes, ordinances, 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."

3.12 Shop Drawings, Product Data and Samples

3.12.11 Add a new Section 3.12.11 which shall read, “The Owner shall be entitled to deduct from the Contract Sum amounts paid for Architect’s additional services and expenses when more than three submissions of any item is required due to the fault of the Contractor.”

3.18 Indemnification

3.18 In the second line after the word, "agents" add the words "and officers." In the seventh line, insert a period after the word “liable” and insert the following new sentence: "Notwithstanding any other provision to the contrary contained herein, the Contractor shall indemnify and hold harmless the Owner, its officers, agents and employees from lawsuits, actions, costs (including attorneys' fees), claims or liabilities of any character including, as allowed by law, liabilities incurred due to charges of joint negligence of the Owner and Contractor brought because of any injuries or damages sustained by any person, persons or property but only to the extent caused by any act or omission, neglect or misconduct of said Contractor, its officers, agents or employees arising out of, or in performance of, any provisions of the Contract." and delete the remainder of the paragraph.

Add a new Section 3.19 as follows:

"3.19 Compliance with Governmental Regulations

3.19.1 Contractor shall comply with all applicable governmental ordinances, statutes, rules and regulations including but not limited to the Illinois Human Rights Act and hereby agrees that the Contractor will establish procedures to require that the Contractor and its Subcontractors shall have written sexual harassment policies in place and shall not engage in any prohibited form of discrimination in employment as defined in that Act including maintaining policies of equal employment opportunity which shall prohibit discrimination against any employee or applicant for employment on the basis of race, religion, color, sex, national origin, ancestry, citizenship status, age, marital status, physical or mental disability unrelated to the individual’s ability to perform the essential functions of the job, association with a person with a disability, or unfavorable discharge from military service. They also shall comply with all the Rules of the Illinois Department of Human Rights with regard to posting information on employees’ rights under the Act and shall place statements identifying their companies as equal opportunity employers in all advertisements for workers to be employed in work to be performed under this Agreement.”

ARTICLE 4. ARCHITECT

4.1 General

4.1.3 In the first and second lines, delete the following phrase: "as to whom the Contractor makes no reasonable objection and."

4.2 Administration of the Contract

4.2.2 In the second line, delete the phrase, "become generally familiar with" and replace it with the word, "observe." In the third line, delete the words "in general" and in the third and fourth lines, delete the phrase "in a manner indicating that the Work, when fully completed will be."

4.2.5 Insert the words "as reviewed with and approved by the Owner" after the words, "and certify."

4.2.13 Replace the word "Architect" with the word "Owner."

ARTICLE 5. SUBCONTRACTOR

5.1 Definitions

5.1.2 At the end of 5.1.2, insert the following: "All references to the term "Subcontractors of any tier" shall be understood to incorporate the term Sub-subcontractors."

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

5.2.1 Delete **5.2.1** and replace it with the following:

"5.2.1 All contracts with Prime Contractors shall be obtained through public, competitive bidding as required under Illinois law, including Section 5/5-5 of the Illinois Local Library Act, for public construction projects (75 ILCS 5/5-5). The Construction Manager shall enter into all such contracts with Prime Contractors as an authorized representative of the Board of Library Trustees of the Downers Grove Public Library."

5.2.2, 5.2.3 and 5.2.4 Delete Sections 5.2.2, 5.2.3 and 5.2.4 in their entirety.

ARTICLE 6. CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

6.1.1 Delete the words "identical or substantially."

6.2 Mutual Responsibility

6.2.2 Insert the following at the end of the section:

“Failure of the Contractor to so report shall constitute an acknowledgement that the Owner’s or separate contractors completed or partially completed construction is fit and proper to receive the Contractor’s Work, except as to defects not then reasonably discoverable.”

6.2.3 Delete Section 6.2.3 and substitute the following:

“Notwithstanding any other provision in the Contract Documents, Contractor shall coordinate the Work with all other contractors or subcontractors who are working under other contracts and whose work impacts the scheduling of the Work of this Contract and no claim shall be made or allowed to the Contractor by the Owner for any damages which may arise out of any delay caused by other contractors or subcontractors working under such other contracts, or by Owner under this Contract except that an extension of Contract Time shall be awarded for changes in the Contract made by Owner which create delay. Further, if any act or omission of the Contractor or its Subcontractors delays the work of other contractors or subcontractors working under such other contracts, Contractor, and not the Owner, shall be liable for all claims for damages or cost of delay made by those contractors or subcontractors. Contractor shall perform the work of the Contract expeditiously in cooperation with the Owner's agents, employees, contractors and subcontractors.”

6.2.4 In the first line, delete the word "wrongfully" and in the second line, after the word "Owner," add the phrase ", its officers, agents, employees, or subcontractors."

6.2.6 Add Section 6.2.6 to provide as follows:

“The Contractor shall require its Subcontractors to name the Owner and Contractor as additional insureds on the Subcontractors general liability insurance policies and to require them to file certificates of insurance with Owner and Contractor showing such compliance prior to commencing Work on the Project.”

ARTICLE 7. CHANGES IN THE WORK

7.1 General

7.1.0 Add new Section 7.1.0 as follows:

“**7.1.0** After execution of the Contract, changes in the Work may be accomplished by Change Order or by order of a minor Change in the Work. No change orders shall be issued for the work under this Contract which authorize or necessitate an increase or decrease in the cost of the Contract by a total of \$10,000 or more or in the time of completion by a total of thirty (30) days or more unless a written determination that the circumstances necessitating the change in performance were not reasonably foreseeable at the time the contract was signed, the change is germane to the original contract as signed or the change order is in the best

interest of the Owner, is made by the Owner or a duly authorized designee of the Owner. Change Orders increasing the original Contract Sum by 50% or more of Contracts originally publicly bid must be re-submitted to public, competitive bidding.”

7.3 Construction Change Directives

7.3.3 Add the following as 7.3.3.5, “In no case shall the total amount of the mark-up exceed ten percent (10%) regardless of the number of Subcontractors.”

ARTICLE 8. TIME

8.2 Progress and Completion

8.2.3 At the end of 8.2.3 insert the following: “by all proper and appropriate means, and unless excused by 8.3.1 of the Contract, including working overtime without additional compensation. Time is of the essence of this Agreement”

8.3 Delays and Extensions of Time

8.3.1 Insert the word “wrongful” before the word “act” in the first line and delete the words “or neglect.” Insert the words “that are industry-wide” after the words “labor disputes.” In the fourth line, delete the words “mediation and arbitration” and replace them with “formal negotiation and/or litigation.” Insert a period after the words “for such reasonable time” in the last line and delete the remainder of the section.

8.3.3 Delete 8.3.3 in its entirety and substitute the following: “There shall be no recovery for delay unless permitted under 6.2.3 of this Agreement.”

ARTICLE 9. PAYMENTS AND COMPLETION

9.2 Schedule of Values

9.2 Insert the words “Owner and” before the word “Architect” in the fourth line so that the line reads, “the Owner and Architect may require. This schedule, unless objected to by the Owner and Architect shall be used as a basis for reviewing...”

9.3 Applications for Payment

9.3.1 Delete the second sentence in its entirety and insert the following:

“The Owner requires for each Application for Payment, a properly completed Contractor's Affidavit setting out, under oath, the name, address and amount due or to become due, of each Prime Contractor, Subcontractor of any tier, vendor, supplier or other appropriate party included in that payment. For every party listed, the Contractor shall also provide a full or partial waiver of lien, as

appropriate, before a payment will be made to the Contractor. The Contractor's partial or final waiver of lien must be included. Payment certificates shall not be issued by Architect without such mechanics' lien waivers and contractors' sworn statements unless they are conditioned upon receipt of such waivers and statements.”

9.3.2 Delete the second sentence and substitute the following, “No certificate shall be issued in favor of the Contractor and no payment will be made by Owner for material not actually installed and built into the building without prior written authorization from the Owner.”

9.5 Decisions to Withhold Certification

9.5.1 Insert the words “or if Owner and Architect cannot agree on the amount properly due” in the third line after the word “made.” In the fourth line, insert the word “Owner” before the words “Contractor and Architect.”

9.7 Failure of Payment

9.7 Delete the words, “awarded by binding dispute resolution” and replace them with “agreed to in negotiations between Contractor and Owner.”

9.8 Substantial Completion

9.8.3 Add the following sentence at the end of this section, “The Owner shall be entitled to deduct from the Contract Sum amounts paid for Architect’s additional services and expenses for the Architect to conduct such additional inspections, as long as Contractor is notified that there will be additional expenses prior to inspection.”

9.8.4 Insert the words “Contract Documents or” after the words, “provided in the.”

9.8.5 In the third line, at the end of the second sentence, insert the following: “or the amount in reduction of retainage as is otherwise called for in the Contract Documents.”

9.10 Final Completion and Final Payment

9.10.1 Insert the following at the end of this section, “If the inspection reveals the Work is not sufficient to be certified for final payment, the Contractor shall promptly complete or correct noted deficiencies and request another inspection by the Owner and Architect. The Owner shall be entitled to deduct from the Contract Sum amounts paid for Architect’s additional services and expenses for the Architect for such additional inspections.”

9.10.4 Delete Section 9.10.4 in its entirety, including Subsections .1, .2 and .3.

ARTICLE 10. PROTECTION OF PERSONS AND PROPERTY

10.2.4 Insert the words “shall give the Owner reasonable advance notice” before the words “and shall exercise.”

10.3 Hazardous Materials

10.3.2 Delete Section 10.3.2 in its entirety and replace it with the following:

“Upon receipt of the Contractor’s written notice, the Owner shall investigate and proceed pursuant to the law and applicable regulations. Upon providing a copy of the Contractor’s written notice, the Contractor will be permitted to continue to suspend performance of the Contractor’s services in the affected area provided, however, that Contractor shall return to work at Owner’s discretion and declaration either that the material encountered does not require remediation or that it has been addressed in accordance with the law. If the Contractor suspends services for longer than 21 days, the Owner may terminate this Agreement, and the Contractor shall be compensated for services performed prior to the suspension of Contractor’s services. Under no circumstances, unless required by law, shall the Contractor report the existence of any hazardous materials or substances to any other governmental entity or agency without the Owner’s prior written consent. Unless otherwise provided in the Contract Documents to be part of the Work, Contractor is not responsible for any unforeseen hazardous materials or substances encountered at the site, provided, however, Owner is not responsible for any hazardous material or substance releases or spills introduced to the site by Contractor, subcontractor or anyone for whose acts they may be liable.”

10.3.3 Delete Section 10.3.3 in its entirety.

10.3.6 Delete Section 10.3.6 in its entirety.

ARTICLE 11. INSURANCE AND BONDS

11.1 Contractor's Liability Insurance

11.1.1 At the end of Section 11.1.1 insert the following:

“The Contractor shall carry worker's compensation and public liability insurance in the amounts set forth below and furnish the Owner with Certificates of Insurance prior to commencing with Work. All such insurance shall be carried with companies satisfactory to the Owner. The Contractor shall have the following obligations with regard to insurance coverage for the Work under the Contract:

- a. All policies required to be obtained by the Contractor shall provide that coverages under the policies named shall not be canceled, modified, reduced or allowed to expire without at least Thirty (30) Days prior written notice given to the Owner. All certificates evidencing coverage extended beyond the date of final payment shall be provided at the time of the final Pay Request. All Certificates of Insurance shall name the Board of Library Trustees of the Downers Grove Public Library and its officers, agents and employees as additional insureds on a primary non-contributory basis with respect to General Liability only.
- b. All general liability insurance required of the Contractor shall state that it is Primary Insurance as to all additional insureds with respect to all claims arising out of operations by or on their behalf. If additional insureds have other applicable insurance coverages, those coverages shall be regarded as on an excess or contingent basis.
- c. The Contractor shall require that every Prime Contractor and each of their subcontractors of any tier obtain insurance of the same character as that required of Contractor, unless the Owner authorizes such lesser amount of coverage, naming the same additional insureds and subject to the same restrictions and obligations as set forth for the Contractor's insurance in the Contract Documents.
- d. Under no circumstances shall the Owner be deemed to have waived any of the insurance requirements of this Contract by any act or omission, including, but not limited to:
 - (1) allowing work by Contractor or any subcontractor of any tier to start before receipt of Certificates of Insurance;
 - (2) failure to examine, or to demand correction of any deficiency, of any certificate of insurance received.

The Contractor agrees that the obligation to provide insurance is solely the Contractor's responsibility and cannot be waived by any act or omission of the Owner.

- e. The purchase of insurance by the Contractor under this Contract shall not be deemed to limit the liability of the Contractor in any way, for damages suffered by Owner in excess of policy limits or not covered by the policies purchased.
- f. The Contractor shall notify the Owner, in writing, of any possible or potential claim for personal injury or property damage arising out of the work of this Contract promptly whenever the occurrence giving rise to such a potential claim becomes known to the Contractor.

- g. The Contractor shall provide insurance acceptable to the Owner. Such insurance shall include the following coverages in the following amounts:
- (1) Workers' Compensation (including occupational disease and employer's liability insurance) covering liability of its employees and employees of its subcontractors in accordance with the law of the State of Illinois, including the Illinois Worker's Compensation Act, as amended.
 - (2) Commercial General Liability (including Premises-Operations; Independent Contractors's Protective; Products and Completed Operations: Broad Form Property Damage):
 - a. Bodily Injury and Property Damage
\$1,000,000 each occurrence
\$1,000,000 aggregate
 - b. Covering the following hazards:
X(Explosion)
C(Collapse)
U(Underground)
 - c. Products and Completed Operations Insurance shall be maintained for a minimum of two years after final payment and the Contractor shall continue to provide evidence of such coverage to the City on an annual basis during the two-year period.
 - (3) Umbrella Excess Liability: \$4,000,000 over primary insurance
 - (4) Automobile Liability (owned, non-owned, hired):
 - a. Bodily Injury and Property Damage
\$1,000,000 each occurrence
- h. The Contractor further agrees to cause contractual liability to include under the coverage therein extended an obligation on the part of the insurers to insure against Contractor's contractual liability hereunder and further agrees that said coverage shall be afforded therein against all claims arising out of the use of scaffolds, hoists, cranes, stays, ladders, supports or other mechanical contrivances. Endorsements to the Certificates of Insurance shall include as additional named insured the following:
- (1) Board of Library Trustees of the Downers Grove Public Library and its officers, agents and employees.”

11.1.3 In the first line after the phrase "acceptable to the Owner" insert the following: "naming the Owner, its officers, agents and employees as additional insureds."

Also insert the following new provisions **11.1.5 - 11.1.7**:

“11.1.5 Under no circumstances shall the Owner be deemed to have waived any of the insurance requirements of this Contract by any act or omission, including, but not limited to:

- 1) allowing work by Prime Contractor or any Subcontractor of any tier to start before receipt of Certificates of Insurance.
- 2) failure to examine, or to demand correction of any deficiency, of any certificate of insurance received.

11.1.6 The Construction Manager agrees that the obligation to provide its insurance is solely the Construction Manager’s responsibility and cannot be waived by any act or omission of the Owner. The purchase of insurance by the Construction Manager under this Contract shall not be deemed to limit the liability of the Construction Manager in any way, for damages suffered by Owner in excess of policy limits or not covered by the policies purchased.

11.1.7 The Construction Manager shall notify the Owner, in writing, of any possible or potential claim for personal injury or property damage arising out of the work of this Contract promptly whenever the occurrence giving rise to such a potential claim becomes known to the Construction Manager.”

11.3 Property Insurance

11.3.1 At the end of 11.3.1 insert the following: "The Owner and Contractor shall mutually agree upon the property insurance policy to be purchased by the Owner.”

11.3.1.3 At the end of 11.3.1.3 add the following: "unless the loss is due in whole or part to the negligent acts or omissions of the Construction Manager or responsible Prime Trade Contractor, and the responsible party shall pay the portion of the deductible amount that corresponds to its comparative degree of negligence."

11.3.1.4 Delete this Subsection in its entirety and insert the following: "Contractor shall provide insurance for portions of the Work stored off site (if Owner allows off site storage) and Work in transit to the site."

11.3.3 Loss of Use Insurance

11.3.3 Delete the second sentence in Section 11.3.3, which reads as follows:

“The Owner waives all rights of action against the Contractor for loss of use of the Owner’s property, including consequential losses due to fire or other hazards however caused.”

11.3.5 Delete Section 11.3.5 in its entirety.

11.3.7 Waivers of Subrogation

11.3.7 Delete Section 11.3.7 in its entirety and replace with the following:

“Notwithstanding any other provision in the Contract Documents, the Owner shall not, in any manner, be deemed or intended to have waived any right of subrogation which either it, or its insurance carrier may have against the Architect, Contractor, Subcontractor or any tier, or any of their employees, agents, consultants, officers and directors.”

11.3.10 In the second line, insert a period after the word "power" and delete the remainder of the paragraph.

11.4 Performance Bond and Payment Bond

11.4.1 Delete 11.4.1 in its entirety and insert the following:

“The Contractor shall furnish to the Owner at the time of execution of this Contract, bonds in the full amount of the Contract securing the full and faithful performance of this Contract and the payment for all labor and material furnished by the Contractor or anyone furnishing such under the Contractor's contracts or a subcontract of any tier. Said bonds shall be in conformance as set forth below and any additional specifications imposed by other Contract Documents, including, but not limited to, the prevailing wage requirements set forth in the Contract Documents. Said bonds shall be written by a surety authorized to do business in Illinois that is acceptable to the Owner, in the Owner's discretion. Such bonds shall be obtained from a company with a minimum A.M. Best Rating of A- and to which the Owner has no reasonable objection. The cost thereof shall be paid by the Contractor.

The Contractor shall provide Performance and Labor and Material Payment Bonds as follows:

1. Provide a 100 percent Performance Bond in conformance with AIA Document 312 as modified to show that the time during which the Bond may be called is limited only to the extent required by Illinois law.
2. Provide a 100 percent Payment Bond in conformance with AIA Document 312 as modified to show that the time during which the Bond may be called is limited only to the extent required by Illinois law.

3. The bonds must be from a reputable company acceptable to the Owner as set forth above.

Execution of the Agreement with the Contractor by the Owner is contingent upon receipt of the required Bonds.”

ARTICLE 12. UNCOVERING AND CORRECTION OF WORK

12.2.2 After Substantial Completion

12.2.2.1 Delete the last sentence in its entirety and substitute the following. "The Owner shall give Contractor a reasonable opportunity to correct any Work not in accordance with the requirements of the Contract Documents prior to making any claim for breach of warranty."

12.2.2.2 Add the following sentence at the end of 12.2.2.2: "This obligation shall survive acceptance of the Work under the Contract and termination of the Contract."

ARTICLE 13. MISCELLANEOUS PROVISIONS

13.1 Governing Law

13.1 Delete Section 13.1 in its entirety and insert the following: "The Contract shall be governed by the law of the State of Illinois and venue shall be fixed in the Circuit Court of DuPage County."

13.6 Interest

13.6 Delete Section 13.6 in its entirety and replace it with the following, "Payments are due and payable in accordance with the Local Government Prompt Payment Act."

13.7 Time Limits on Claims

Delete Section 13.7 in its entirety and substitute the following:

“13.7 Certification Required

Contractor and Prime Contractors must certify that they are not barred from contracting with any unit of state or local government as a result of a violation of either Section 33E-3 or 33E-4 of the Illinois Criminal Code or any similar offense of any State or of the United States which contains the same elements as the Illinois offenses of bid-rigging or bid rotating. A Certificate of Eligibility to Enter into Public Contracts shall be executed by the Contractor and Prime Contractors."

Add the following new provisions:

“13.8 Tax Certificates and Exemption Numbers

13.8.1 Owner shall, as part of its undertakings under this Contract, provide to the Contractor all certificates of exemptions and tax exempt numbers needed to entitle Contractor and Subcontractors to purchase material and other items to be used on the work or incorporated into the work on a tax exempt basis, said exemptions specifically to include but not be limited to the “Illinois Retailer’s Occupation Tax” (sales tax). Contractor shall warrant that all material costs and scheduled values have been calculated so as to give Owner its full benefit of its tax-exempt status, and Contractor shall require that all Prime Contracts, and Subcontracts include a requirement that materials be purchased so as to give Owner the full benefit of its tax exempt status. Owner shall not be liable for, and shall be entitled to a credit against the Contract sum for, any sales tax paid by Contractor, Prime Contractors or any Subcontractor of any tier which is shown to have been charged to owner as part of the Contract sum, as a component of the schedule of values, as a unit price, or otherwise.”

13.9 No Waiver of Payment

13.9.1 Notwithstanding any language in the General Conditions or any other Contract Document to the contrary or inconsistent with this provision, Owner shall not be deemed to waive any claim or right to assert a claim by making any progress payment or final payment.

13.9.2 Waiver of Lien

13.9.2 Upon satisfaction of the terms and conditions of the Contract and final payment, the Construction Manager agrees to provide the Owner with a final release and waiver of all liens covering all work performed under the Contract relative to the project. Said final waiver of lien shall identify and state that all Prime Contractors and any applicable Subcontractors of any tier have been paid in full and there are no contract balances outstanding and owed to any such Prime Contractors or other Subcontractors."

13.10 Human Rights Act

The Contractor hereby agrees that this contract shall be performed in compliance with all requirements of the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., and that all contractors and subcontractors performing Work on the Project shall not engage in any prohibited form of discrimination in employment as defined in that Act. The Contractor shall maintain, and require that its subcontractors maintain, policies of equal employment opportunity which shall prohibit discrimination against any employee or applicant for employment on the basis of race, religion, color, sex, national origin, ancestry, citizenship status, age, marital status, physical or mental disability unrelated to the individual’s ability to perform the essential functions of the job, association with a person with a disability, or

unfavorable discharge from military service. The Contractor and all subcontractors shall comply with all requirements of the Act and of the Rules of the Illinois Department of Human Rights with regard to posting information on employees' rights under the Act. The Contractor and all subcontractors shall place appropriate statements identifying their companies as equal opportunity employers in all advertisements for workers to be employed in work to be performed under this contract."

13.11 Sexual Harassment Policy

Pursuant to Section 2-105 (A)(4) of the Illinois Human Rights Act, the Contractor and each subcontractor shall adopt and maintain written sexual harassment policies that shall include, at a minimum, the following information:

- .1 the illegality of sexual harassment;
- .2 the definition of sexual harassment under state law;
- .3 a description of sexual harassment, utilizing examples;
- .4 the contractor/subcontractor's internal complaint process, including penalties;
- .5 the legal recourse, investigative and complaint process available through the Department and Commission (of Human Rights);
- .6 directions on how to contact the Department and the Commission; and
- .7 protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act.

A copy of these policies shall be provided to the Owner or the Architect on request.

13.12 Right to Audit

The Owner shall have the right to access and audit all the Contractor's and Subcontractor's Project records and documents.

- .1 Such data collection shall be at the Owner's expense and shall not unduly disrupt the normal operations of the Contractor's or Subcontractor's business. The Owner shall be entitled to make copies of the Contractor's and Subcontractor's records and documents including copies in electronic format.
- .2 Change Order costs in excess of normal industry practice or otherwise in excess of reasonable cost for the scope, nature and circumstances of the changes are subject to renegotiation.
- .3 Records and documents include, but are not limited to all books, correspondence, memorandum, communications logs, drawings, receipts, vouchers, labor records, payment records, insurance certificates, evidence of bond coverage and other jobsite, home office and related information and data.
- .4 Contractor and Subcontractors shall be required to preserve all documents relating to this Agreement for a period of three years after final payment.
- .5 The Owner shall, both during and after the term of this Agreement, treat the

records and documents provided under this provision confidentially. Following an audit of the records, the Owner shall return to Contractor and/or Subcontractors all records and documents of the Contractor and/or Subcontractors, including all electronic information. Notwithstanding the foregoing, the Owner's confidentiality obligations shall not extend to information which is in the public domain or subsequently comes in the public domain without breach of this Agreement, or is required to be disclosed pursuant to a judicial or court order or pursuant to law, provided the Contractor and/or Subcontractor shall be given notice and an opportunity to object to such disclosure. The non-disclosure restrictions described above shall remain in effect after the termination date of this Agreement."

ARTICLE 14. TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 Termination by the Contractor

14.1.3 In the last line after the word "termination" delete the phrase "and damages."

14.2 Termination by the Owner for Cause

14.2.1 Add new Subsection .5 to Section 14.2.1 as follows:

"5 Declares bankruptcy or if a receiver is appointed."

14.2.2 Delete the words "upon certification by the Initial Decision Maker that sufficient cause exists to justify such action."

14.2.4 Delete Section 14.2.4 in its entirety.

14.3 Suspension by the Owner for Convenience

14.3.1 Add the following at the end of 14.3.1, "If the suspension, delay or interruption is solely for Owner's convenience and not due to any act or omission of the Contractor, Owner shall extend the Contract Time."

14.3.2 Delete Section 14.3.2 in its entirety.

14.4 Termination by the Owner for Convenience

14.4.3 In the second line, at the end of 14.4.3, insert a period after the word "profit" and delete remainder of the sentence.

14.5.1 Add a new Section 14.5.1 which shall read in its entirety as follows:

“14.5.1 Project Records

14.5.1 Upon termination for cause, the Contractor shall permit the Owner to copy all documents and samples at the site as enumerated in Subparagraph 3.11 and shall provide record copies of all other documents, shop drawings, product data, samples, etc., prepared for the Project to the Owner in paper or electronic (as practical) form.”

ARTICLE 15. CLAIMS AND DISPUTES

15.1.6 Claims for Consequential Damages

15.1.6 Delete Section 15.1.6 in its entirety.

15.2 Initial Decision

15.2.5 Delete the last sentence of Section 15.2.5, which reads as follows: “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 Delete Section 15.2.6 in its entirety and replace with the following: “A decision by the Initial Decision Maker shall not constitute a waiver by either party to have a claim resolved through judicial decision.”

15.2.6.1 Delete Section 15.2.6.1 in its entirety.

15.3 Mediation

15.3.1 Delete Section 15.3.1 in its entirety.

15.3.2 Delete this Subsection in its entirety.

15.3.3 Delete this Subsection in its entirety and add in its place:

“Notwithstanding any inconsistent or contrary provision in the Contract Documents, no claim or dispute arising under the Contract Documents shall be subject to arbitration or mediation unless the parties mutually agree on a submission to arbitration or mediation, which submission shall be in writing and signed by the parties and shall set forth a specific statement of the nature of the dispute and shall contain an express statement on the limitations of the powers of the arbitrator or mediator. The parties mutually agree that in the absence of such a submission, arbitration or mediation cannot be demanded or compelled by either party.”

15.4 Arbitration

15.4 Delete 15.4 in its entirety, including 15.4.1, 15.4.1.1, 15.4.2 and 15.4.3.

This Rider shall be effective on the day and date above when executed by duly authorized agents of the parties.

FOR THE OWNER:

FOR THE CONSTRUCTION MANAGER:

DOWNERS GROVE PUBLIC LIBRARY

SHALES McNUTT, L.L.C.

**President, Board of Library Trustees of
the Downers Grove Public Library**

**Authorized Representative
Shales McNutt, L.L.C.**

ATTEST:

ATTEST:

Secretary, Downers Grove Public Library

By: _____

Its: _____

**DOWNERS GROVE PUBLIC LIBRARY
BOARD OF TRUSTEES
MARCH 21, 2018**

AGENDA ITEM 8B

Strategic Plan – Action Plan Update

The largest change to the Action Plan as proposed is the change of Point Person column from name to job title. The remaining changes include assigning some tasks to our newly formed Programming Team, a cross departmental group of staff responsible for programs, and to the new Adult Program Coordinator. Tasks assigned to the former Assistant Director for Support Services are now assigned to the Facilities Manager. There are 12 Target Date changes, primarily to distribute tasks more evenly throughout the 2017-2020 period and to more accurately reflect some that are ongoing/annual. There is one wording change to an Action Item: “Work with Village to create additional handicap parking spaces on Curtiss Street” to “Request that the Village designate additional handicap parking spaces on Curtiss Street.”

The first annual report of Action Plan progress will be made to the Board of Library Trustees this summer.

I recommend approval of the updated Action Plan.

ACTION PLAN

The Action Plan lists the goals, objectives, and actions, with measurable outcomes and target dates for completion, which address Strategic Focus areas. It clarifies what resources are required to reach the goals of the Strategic Plan. The Action Plan is primarily an internal document to guide the library's planning, budgeting, and delivery of services and resources.

Strategic Focus: Excel in delivering service and managing resources

Goal: We deliver stellar service guided by our Customer Service Promise.

Objective: To provide library-wide customer service excellence

Action	Point Person (Department)	Target Date
Each staff member attends one customer service training session (other than In-Service Day)	Management Team	Annual
Create a Service Excellence Team to support and improve upon our stellar service	Circulation Manager	December 2017
Provide In-Service Day customer service training on working with diverse populations	Assistant Library Director	January 2018

Goal: We cultivate dynamic and diverse collections.

Objective: To utilize best practices in collection development and management

Action	Point Person (Department)	Target Date
Investigate tools available to ensure most up-to-date are being used	Adult and Teen Services Manager	Annual
Utilize SWAN reports to inform decision making	Assistant Library Director	Annual

Objective: To provide a robust array of resources and services available 24/7

Action	Point Person (Department)	Target Date
Evaluate current digital resources	Adult and Teen Services Manager	Annual
Evaluate website content and effectiveness	Public Relations Manager	Annual
Explore use of online tutorials about how to use resources and services	Information Technology Manager and Adult and Teen Service Manager	December 2018

Objective: To provide special collections that reflect the diverse needs and interests of the Downers Grove community

Action	Point Person (Department)	Target Date
Continue developing, digitizing, and preserving Local History collection	Adult and Teen Services Manager	Annual
Explore and offer technology equipment for check out	Information Technology Manager	Annual
Create a circulating collection of STEM materials	Children's Services Manager	December 2018
Explore creating a "Rack at the Tracks" for commuters	Circulation Manager	December 2018
Explore Human Library concept including different topics and community members	Circulation Manager	December 2019

Goal: We provide value to the community for the funds entrusted to us.

Objective: To be financially responsible and resourceful in purchasing decisions

Action	Point Person (Department)	Target Date
Actively seek opportunities for group purchasing, new tools, lower-cost vendors, etc.	Management Team	Annual
Solicit local vendors to respond to bids and request for proposals, as practical	Facilities Manager	Annual

Objective: To seek out alternate funding sources

Action	Point Person (Department)	Target Date
Regularly investigate grant opportunities available	Management Team	Annual
Support the Friends of the Library and Foundation in their fundraising activities	Library Director	Annual

Goal: We remove barriers to service.

Objective: To improve physical access to services

Action	Point Person (Department)	Target Date
Explore alternatives to make entrances accessible from handicap parking spaces in snow	Facilities Manager	December 2018
Review ADA accessibility of Forest Avenue parking lot	Facilities Manager	June 2018
Request that the Village designate additional handicap parking spaces on Curtiss Street	Library Director	December 2018
Consider moving or removing security gates	Circulation Manager	December 2018
Work with stakeholder organizations to identify potential solutions to parking issues and advocate for implementation	Library Director	December 2019

Objective: To adjust policies and procedures to improve access to services

Action	Point Person (Department)	Target Date
Review effects of online booking of meeting spaces	Public Relations Manager	Annual
Investigate the effects of eliminating fines	Circulation Manager	December 2019
Create policy and procedures for shelter resident cards	Circulation Manager	September 2017
Work with SWAN to implement an online library card application process	Circulation Manager	December 2019
Update Policy Manual	Library Director	December 2018
Create a process for teens to get a library card without a parent present	Circulation Manager	June 2018

Strategic Focus: Engage with our community and the world

Goal: We partner with local organizations and government entities.

Objective: To coordinate efforts that support each organization's programs and services

Action	Point Person (Department)	Target Date
Begin Downers Grove organizations roundtable to make connections and share information	Public Relations Manager	December 2018
Investigate allocation of outreach tasks and duties	Assistant Library Director	December 2018
Support community organizations in finding volunteers	Public Relations Manager	Annual
Investigate a Village-wide information clearinghouse for volunteer opportunities and assistance needs	Public Relations Manager	December 2019

Goal: We encourage civic engagement.

Objective: To support community connections through programming

Action	Point Person (Department)	Target Date
Partner with local organizations to offer four additional civic engagement programs per year	Adult Program Coordinator	October 2018
Create a series of programs for residents to discuss local issues, including a mechanism to identify topics	Public Relations Manager	June 2019

Goal: We communicate the library's value to the community.

Objective: To raise awareness of the library

Action	Point Person (Department)	Target Date
Create and implement a Communications Plan, concentrated on strategic focus areas	Public Relations Manager	December 2018

Goal: Staff actively seek opportunities to share knowledge and expertise.

Objective: To support staff in becoming leaders in the library profession

Action	Point Person (Department)	Target Date
Submit at least one conference program proposal or have at least one staff member included in a conference proposal per year	Management Team	Annual
Actively participate in RAILS, SWAN, and other local professional organizations' committees and advisory groups	Management Team	Annual
Support participation in professional committees on the state and national level	Management Team and Administration	Annual

Strategic Focus: Empower individuals at all ages and stages of life

Goal: The library is the center of lifelong learning in Downers Grove.

Objective: To provide high-impact learning resources, technologies, and services for all ages

Action	Point Person (Department)	Target Date
Support small business-focused learning opportunities	Adult and Teen Services Manager	Annual
Connect people to resources that develop job skills	Adult and Teen Services Manager	Annual
Provide support for book clubs through book club kits	Adult and Teen Services Manager	June 2018
Expand services to seniors and senior centers to address their unmet needs	Adult and Teen Services Manager	June 2019
Create opportunities to connect homeschool families to resources	Children's Services Manager	December 2019
Partner with other organizations on their lifelong learning initiatives	Public Relations Manager	December 2020

Goal: We support the literacies needed to navigate today's world.

Objective: To offer digital literacy learning opportunities

Action	Point Person (Department)	Target Date
Explore dedicated staffing for the Media Lab	Information Technology Manager	June 2018
Create a Media Lab service plan	Information Technology Manager	December 2018
Develop an array of digital literacy classes and curricula	Information Technology Manager	December 2019

Objective: To support adult literacy

Action	Point Person (Department)	Target Date
Coordinate ESL and adult literacy services with local agencies	Adult and Teen Services Manager	Annual
Explore programs and resources to support literacy in areas such as health, finance, and life skills	Programming Team	Annual

Objective: To prepare the children of Downers Grove with the skills needed for school readiness

Action	Point Person (Department)	Target Date
Train all Children's Services staff on Every Child Ready to Read and early literacy research	Children's Services Manager	June 2019
Partner with local hospitals to provide early literacy information to parents of new babies	Children's Services Manager	December 2019
Implement a 1,000 Books Before Kindergarten initiative	Children's Services Manager	January 2018
Update established early childhood programming to more visibly incorporate early literacy skills development	Children's Services Manager	December 2019
Offer early literacy education for parents	Children's Services Manager	June 2020

Goal: We connect people to the arts and cultural experiences.

Objective: To enrich the library experience through art displays and collections

Action	Point Person (Department)	Target Date
Offer tours of the library art collection, virtually and in-person	Public Relations Manager	March 2019
Provide gallery space and performance opportunities to showcase artistic and cultural creations	Public Relations Manager	Annual
Preserve and protect the art collection	Library Director	December 2020

Objective: To support cultural programs that embrace equity, diversity, and inclusion

Action	Point Person (Department)	Target Date
Explore programs to connect residents to diverse cultures and languages	Programming Team	Annual
Develop relationships with key partners to support arts and culture	Public Relations Manager and Programming Team	June 2019

Objective: To respond to pop culture trends

Action	Point Person (Department)	Target Date
Offer timely programs, resources, and services	Management Team and Programming Team	Annual

Goal: We provide staff with opportunities to learn and grow.

Objective: To invest in staff training and professional development

Action	Point Person (Department)	Target Date
Offer continuing education opportunities for all staff	Management Team	Annual
Expand use of staff expertise for in-house training	Management Team	Annual
Expand professional skills using cross-departmental teams	Management Team	Annual
Create library-wide training program for supervisors	Assistant Library Director	December 2018
Cross-train staff to maximize staffing resources	Management Team	December 2018

Strategic Focus: Evolve with our changing community

Goal: We maintain an accessible and welcoming building.

Objective: To provide equipment and furnishings that support the library's goals and activities

Action	Point Person (Department)	Target Date
Provide comfortable, durable, and functional furniture that supports use of technology	Facilities Manager	Annual
Complete updating restrooms	Facilities Manager	December 2018
Upgrade lighting in public areas	Facilities Manager	December 2020
Provide additional outdoor seating	Facilities Manager	December 2019
Investigate noise abatement solutions for Circulation Services workroom and Teen Central	Facilities Manager	June 2018
Evaluate ADA accessibility throughout the building	Facilities Manager	Annual

Objective: To proactively plan for the library's future

Action	Point Person (Department)	Target Date
Develop and maintain a Long-Range Budget Plan	Library Director	Annual
Implement the recommendations of the Facilities Assessment	Library Director	Annual
Assess and address staffing needs	Library Director	June 2018

Goal: We seek and respond to community feedback.

Objective: To provide opportunities for residents and library users to give feedback

Action	Point Person (Department)	Target Date
Continue to use and report on How Did We Do? forms	Assistant Library Director	Annual
Use surveys to gather feedback	Management Team	Annual
Record issues to identify focus areas for Service Excellence Team	Management Team	Annual
Seek feedback from target populations	Management Team	Annual

Goal: Staff actively seek innovative ideas for library services and resources.

Objective: To allow staff time and resources to generate and investigate ideas

Action	Point Person (Department)	Target Date
Conduct management team brainstorming sessions	Library Director	Annual
Create cross-departmental Innovation Team	Assistant Library Director	June 2018

Goal: We reflect the diversity of our community.

Objective: To be inclusive in providing service to the community

Action	Point Person (Department)	Target Date
Provide regular patron service training for all staff in equity, diversity, and inclusion	Management Team	Annual
Incorporate inclusive practices into library services	Management Team	Annual
Create a diversity strategy for recruiting that reflects the community	Library Director	December 2019

ACTION PLAN

The Action Plan lists the goals, objectives, and actions, with measurable outcomes and target dates for completion, which address Strategic Focus areas. It clarifies what resources are required to reach the goals of the Strategic Plan. The Action Plan is primarily an internal document to guide the library's planning, budgeting, and delivery of services and resources.

Strategic Focus: Excel in delivering service and managing resources

Goal: We deliver stellar service guided by our Customer Service Promise.

Objective: To provide library-wide customer service excellence

Action	Point Person (Department)	Target Date
Each staff member attends one customer service training session (other than In-Service Day)	Managers	Annual
Create a Service Excellence Team to support and improve upon our stellar service	Christine Lees	December 2017
Provide In-Service Day customer service training on working with diverse populations	Bonnie Reid	January 2018

Goal: We cultivate dynamic and diverse collections.

Objective: To utilize best practices in collection development and management

Action	Point Person (Department)	Target Date
Investigate tools available to ensure most up-to-date are being used	Nicole Wilhelms	Annual
Utilize SWAN reports to inform decision making	Jen Fredericks	Annual

Objective: To provide a robust array of resources and services available 24/7

Action	Point Person (Department)	Target Date
Evaluate current digital resources	Nicole Wilhelms	Annual
Evaluate website content and effectiveness	Melissa Fischer	Annual
Explore use of online tutorials about how to use resources and services	Paul Regis	December 2018

Objective: To provide special collections that reflect the diverse needs and interests of the Downers Grove community

Action	Point Person (Department)	Target Date
Continue developing, digitizing, and preserving Local History collection	Nicole Wilhelms	Annual
Explore and offer technology equipment for check out	Paul Regis	Annual
Create a circulating collection of STEM materials	Allyson Renell	December 2018
Explore creating a "Rack at the Tracks" for commuters	Christine Lees	December 2018
Explore Human Library concept including different topics and community members	Christine Lees	December 2019

Goal: We provide value to the community for the funds entrusted to us.

Objective: To be financially responsible and resourceful in purchasing decisions

Action	Point Person (Department)	Target Date
Actively seek opportunities for group purchasing, new tools, lower-cost vendors, etc.	Managers	Annual
Solicit local vendors to respond to bids and request for proposals, as practical	Sue O'Brien	Annual

Objective: To seek out alternate funding sources

Action	Point Person (Department)	Target Date
Regularly investigate grant opportunities available	Managers	Annual
Support the Friends of the Library and Foundation in their fundraising activities	Julie Milavec	Annual

Goal: We remove barriers to service.

Objective: To improve physical access to services

Action	Point Person (Department)	Target Date
Explore alternatives to make entrances accessible from handicap parking spaces in snow	Sue O'Brien	December 2017
Review ADA accessibility of Forest Avenue parking lot	Julie Milavec	June 2018
Work with Village to create additional handicap parking spaces on Curtiss Street	Julie Milavec	December 2018
Consider moving or removing security gates	Christine Lees	December 2018
Work with stakeholder organizations to identify potential solutions to parking issues and advocate for implementation	Julie Milavec	December 2019

Objective: To adjust policies and procedures to improve access to services

Action	Point Person (Department)	Target Date
Review effects of online booking of meeting spaces	Melissa Fischer	December 2017
Investigate the effects of eliminating fines	Christine Lees	December 2019
Create policy and procedures for shelter resident cards	Christine Lees	September 2017
Work with SWAN to implement an online library card application process	Christine Lees	December 2019
Update Policy Manual	Julie Milavec	December 2018
Create a process for teens to get a library card without a parent present	Christine Lees	June 2018

Strategic Focus: Engage with our community and the world

Goal: We partner with local organizations and government entities.

Objective: To coordinate efforts that support each organization's programs and services

Action	Point Person (Department)	Target Date
Begin Downers Grove organizations roundtable to make connections and share information	Melissa Fischer	June 2018
Investigate allocation of outreach tasks and duties	Bonnie Reid	December 2018
Support community organizations in finding volunteers	Melissa Fischer	March 2019
Investigate a Village-wide information clearinghouse for volunteer opportunities and assistance needs	Melissa Fischer	December 2019

Goal: We encourage civic engagement.

Objective: To support community connections through programming

Action	Point Person (Department)	Target Date
Partner with local organizations to offer four additional civic engagement programs per year	Melissa Fischer	October 2018
Create a series of programs for residents to discuss local issues, including a mechanism to identify topics	Melissa Fischer	June 2019

Goal: We communicate the library's value to the community.

Objective: To raise awareness of the library

Action	Point Person (Department)	Target Date
Create and implement a Communications Plan, concentrated on strategic focus areas	Melissa Fischer	June 2018

Goal: Staff actively seek opportunities to share knowledge and expertise.

Objective: To support staff in becoming leaders in the library profession

Action	Point Person (Department)	Target Date
Submit at least one conference program proposal or have at least one staff member included in a conference proposal per year	Managers	Annual
Actively participate in RAILS, SWAN, and other local professional organizations' committees and advisory groups	Managers	Annual
Support participation in professional committees on the state and national level	Managers and Administration	Annual

Strategic Focus: Empower individuals at all ages and stages of life

Goal: The library is the center of lifelong learning in Downers Grove.

Objective: To provide high-impact learning resources, technologies, and services for all ages

Action	Point Person (Department)	Target Date
Support small business-focused learning opportunities	Nicole Wilhelms	Annual
Connect people to resources that develop job skills	Nicole Wilhelms	Annual
Provide support for book clubs through book club kits	Nicole Wilhelms	June 2018
Expand services to seniors and senior centers to address their unmet needs	Nicole Wilhelms	June 2019
Create opportunities to connect homeschool families to resources	Allyson Renell	December 2019
Partner with other organizations on their lifelong learning initiatives	Melissa Fischer	December 2020

Goal: We support the literacies needed to navigate today's world.

Objective: To offer digital literacy learning opportunities

Action	Point Person (Department)	Target Date
Explore dedicated staffing for the Media Lab	Paul Regis	June 2018
Create a Media Lab service plan	Paul Regis	December 2018
Develop an array of digital literacy classes and curricula	Paul Regis	December 2019

Objective: To support adult literacy

Action	Point Person (Department)	Target Date
Coordinate ESL and adult literacy services with local agencies	Nicole Wilhelms	Annual
Explore programs and resources to support literacy in areas such as health, finance, and life skills	Melissa Fischer	March 2018

Objective: To prepare the children of Downers Grove with the skills needed for school readiness

Action	Point Person (Department)	Target Date
Train all Children's Services staff on Every Child Ready to Read and early literacy research	Allyson Renell	December 2018
Partner with local hospitals to provide early literacy information to parents of new babies	Allyson Renell	December 2018
Implement a 1,000 Books Before Kindergarten initiative	Allyson Renell	January 2018
Update established early childhood programming to more visibly incorporate early literacy skills development	Allyson Renell	June 2019
Offer early literacy education for parents	Allyson Renell	September 2019

Goal: We connect people to the arts and cultural experiences.

Objective: To enrich the library experience through art displays and collections

Action	Point Person (Department)	Target Date
Offer tours of the library art collection, virtually and in-person	Melissa Fischer	December 2018
Provide gallery space and performance opportunities to showcase artistic and cultural creations	Melissa Fischer	May 2019
Preserve and protect the art collection	Julie Milavec	December 2020

Objective: To support cultural programs that embrace equity, diversity, and inclusion

Action	Point Person (Department)	Target Date
Explore programs to connect residents to diverse cultures and languages	Managers	Annual
Develop relationships with key partners to support arts and culture	Melissa Fischer	June 2019

Objective: To respond to pop culture trends

Action	Point Person (Department)	Target Date
Offer timely programs, resources, and services	Managers	Annual

Goal: We provide staff with opportunities to learn and grow.

Objective: To invest in staff training and professional development

Action	Point Person (Department)	Target Date
Offer continuing education opportunities for all staff	Managers	Annual
Expand use of staff expertise for in-house training	Managers	Annual
Expand professional skills using cross-departmental teams	Managers	Annual
Create library-wide training program for supervisors	Sue O'Brien and Bonnie Reid	December 2018
Cross-train staff to maximize staffing resources	Managers	December 2018

Strategic Focus: Evolve with our changing community

Goal: We maintain an accessible and welcoming building.

Objective: To provide equipment and furnishings that support the library's goals and activities

Action	Point Person (Department)	Target Date
Provide comfortable, durable, and functional furniture that supports use of technology	Sue O'Brien	Annual
Complete updating restrooms	Sue O'Brien	December 2018
Upgrade lighting in public areas	Sue O'Brien	December 2020
Provide additional outdoor seating	Sue O'Brien	December 2019
Investigate noise abatement solutions for Circulation Services workroom and Teen Central	Sue O'Brien	June 2018
Evaluate ADA accessibility throughout the building	Sue O'Brien	Annual

Objective: To proactively plan for the library's future

Action	Point Person (Department)	Target Date
Develop and maintain a Long-Range Budget Plan	Julie Milavec	Annual
Implement the recommendations of the Facilities Assessment	Julie Milavec	Annual
Assess and address staffing needs	Julie Milavec	June 2018

Goal: We seek and respond to community feedback.

Objective: To provide opportunities for residents and library users to give feedback

Action	Point Person (Department)	Target Date
Continue to use and report on How Did We Do? forms	Bonnie Reid	Annual
Use surveys to gather feedback	Managers	Annual
Record issues to identify focus areas for Service Excellence Team	Managers	Annual
Seek feedback from target populations	Managers	Annual

Goal: Staff actively seek innovative ideas for library services and resources.

Objective: To allow staff time and resources to generate and investigate ideas

Action	Point Person (Department)	Target Date
Conduct management team brainstorming sessions	Julie Milavec	Annual
Create cross-departmental Innovation Team	Jen Fredericks	June 2018

Goal: We reflect the diversity of our community.

Objective: To be inclusive in providing service to the community

Action	Point Person (Department)	Target Date
Provide regular patron service training for all staff in equity, diversity, and inclusion	Managers	Annual
Incorporate inclusive practices into library services	Managers	Annual
Create a diversity strategy for recruiting that reflects the community	Julie Milavec	December 2019

**DOWNERS GROVE PUBLIC LIBRARY
BOARD OF TRUSTEES
MARCH 21, 2018**

AGENDA ITEM 9A

Bylaws – Third Reading

The third revision of the Bylaws is included in your packet. This update reflects the discussion and changes requested at the January and February meetings. “Trustees must” or “Trustees should” were added to the 4 new bullet points in 1.4.3, to match the other bullet points in the section. “Refrain from” and “Do not” phrases were removed from the first, third, and fourth new bullet points. The final sentence in 1.5.7 was deleted.

As provided in the current bylaws, the first draft was presented to the Board at the January regular meeting. This second reading and suggested revisions were presented at the February meeting. The final revision was distributed prior to the March meeting and also in the March packet. A vote may take place at this meeting.

I recommend approval of the revised Bylaws.

1 Bylaws of the Board of Library Trustees of the Village of Downers Grove

1.1 Article I. Compliance with the Law

The following Bylaws are directed specifically toward governing the operation of the Board of Library Trustees of the Village of Downers Grove. These rules are supplementary to the provisions of the statutes of the State of Illinois as they relate to the governance of Boards of Library Trustees. For questions not addressed within these Bylaws, the current Illinois statutes including the Illinois Local Library Act (75 ILCS 5/1 – 5/5-9) shall apply. The Board of Library Trustees of the Village of Downers Grove shall comply with all provisions of the Illinois statutes pertaining to libraries and trustees.

1.2 Article 2. Name

This organization shall be called the Board of Library Trustees of the Village of Downers Grove existing by virtue of the provisions of Chapter 75 of the Illinois Compiled Statutes of the State of Illinois (Illinois Local Library Act, 75 ILCS 5/1 – 5/5-9) and exercising the powers and authority and assuming the responsibilities delegated to it under said statute.

1.3 Article 3. Membership and Terms of Office

1.3.1 Section 1. Appointment of Trustees

Pursuant to the requirements for villages under the commission form of government in the Illinois Compiled Statutes (75 ILCS 5/4-2), the Board of Library Trustees of the Village of Downers Grove (hereafter called the Board) shall consist of six members appointed by the Village Council of the Village of Downers Grove. Newly appointed trustees take the oath of office at the first regular board meeting after September 1, or following appointment, whichever comes first.

1.3.2 Section 2. Terms of Office

A full term on the Board of Library Trustees is six years. The terms are staggered so that one term expires each year on August 31. A Trustee whose term has expired is encouraged to continue to serve until a successor is appointed, as long as the Trustee continues to be otherwise eligible to serve.

1.3.3 Section 3. Vacancies

A vacancy occurs when “the appointed trustee declines to serve, or is unable to serve, or is absent without cause from all regular meetings for a period of one year, or is convicted of a misdemeanor for failing, neglecting, or refusing to discharge any duty imposed upon a trustee by this Act, or becomes non-resident of the city, village,... or who fails to pay the library taxes levied by the corporate authorities.” (75 ILCS 5/4-4) Vacancies are filled by appoint by the Village Council of the Village of Downers Grove.

1.3.4 Section 4. Resignations

If a Trustee wishes to resign from service on the Board, it is requested that a minimum of three months' notice be given to the Library Board to allow the Village Council time to make a new appointment.

1.3.5 Section 5. Orientation of New Trustees

The President of the Library Board and the Library Director shall meet with any new Trustee(s) of the Board within one month of appointment in order to review with the Trustee(s) key operational and policy information.

1.3.6 Section 7. Compensation

Trustees serve without compensation. Reimbursement for actual and necessary expenditures incurred in the performance of their duties shall be made, subject to Board approval.

1.4 Article 4. Purpose and Responsibilities

1.4.1 Section 1. The Role of the Board

The Board of Library Trustees serves the residents of the Village of Downers Grove with the responsibility to determine the purpose of the library in the community and to develop appropriate goals for service; to seek adequate funding to achieve the goals of the library; to adopt written policies to govern the operation of the library; to authorize plans of expenditure to allow implementation of the library's service program; to be aware of issues in library service and legislation affecting libraries; to communicate actively with local government and the general public; and to employ a competent and qualified library administrator.

1.4.2 Section 2. The Role of the Library Director

The Library Director is the library administrator and employed to act as the professional advisor to the Board and as the manager of library operations. In this capacity, the Library Director is responsible for planning, budgeting, recommending and implementing policies, employing and managing the library staff, and enacting the adopted plan of service. The Library Director reports directly to the Board of Library Trustees and participates actively at all board meetings but is not a member of the Board and has no vote.

1.4.3 Section 3 Ethics and Conflict of Interest

Library Trustees hold positions of public trust. Trustees are expected to conduct themselves according to the highest ethical standards and to avoid conflicts of interest.

- Trustees are expected to observe ethical standards with absolute truth, integrity, and honor.
- Trustees must avoid situations in which personal interests might be served or financial benefit gained at the expense of library users, colleagues, or the institution. It is incumbent upon any Trustee to disqualify himself or herself immediately, whenever the appearance of a conflict of interest exists.

Trustees must be aware of and comply with the Illinois Governmental Ethics Act and State Gift Ban Act.

- No Trustee shall engage in any business or transaction, or have a financial or personal interest, whether directly or indirectly, that is incompatible with the proper discharge of his or her official duties in the public interest or that may tend to impair his or her independence of judgment or action in the performance of such official duties. Library Trustees may not be employed by the library.
- Trustees must distinguish clearly in their actions and statements between their personal philosophies and attitudes, and those of the institution, acknowledging the formal position of the Board even if they personally disagree.
- Trustees must respect the confidential nature of library business while being aware of and in compliance with applicable laws governing freedom of information.
- Trustees must be prepared to support to the fullest, the efforts of librarians in resisting censorship of library materials by groups or individuals.
- Trustees who accept library Board responsibilities are expected to perform all of the functions of library Trustees as described in the Illinois Compiled Statutes (75 ILCS 5/4-7.5)
- Trustees should respect the opinions and contributions of other Trustees and work toward acceptable compromise on contentious issues.
- Trustees should refer complaints and/or requests for information from the public to the Library Director.
- Trustees should refer staff grievances or problems to the Library Director, who has full responsibility for managing staff.
- Trustees must conform to the Open Meetings Act in posting and conducting meetings with advance notice to the press and public.
- New Trustees will be given a copy of the Ethics and Conflicts of Interest section of the Bylaws when they take office and will be required to sign a receipt affirming that they understand the policy and will abide by it. Whenever the policy is revised, current Trustees will be required to sign a receipt affirming that they understand the new policy and will abide by it.

1.4.4 Section 4. Duties of the Board

The Board of Library Trustees of the Village of Downers Grove is charged with the responsibility of the governance of the library.

- The Board will hire a skilled Library Director who will be responsible for the day-to-day operations of the library.
- The Board will generally meet once per month. These meetings will be open to the public and noticed in advance.
- Each Trustee shall file a Statement of Economic Interest in their primary county of residence by April 30 of each year.

- The agenda and/or information packet for the meetings will be distributed to the Board by the Library Director prior to meetings. Any Trustee wishing to have an item placed on the agenda will contact the President and Library Director in sufficient time preceding the meeting to have the item placed.
- Any Trustee who is unable to attend a meeting will contact the library to indicate that he or she will be absent. Due to the fact that a quorum is required for each meeting, this contact should be made as far in advance as possible.
- To be effective, Trustees must attend most meetings, read materials presented for review, and attend an occasional Library System (or other library related) workshop, seminar, or meeting. Attendance at meetings via telephone conferencing or electronic means shall not constitute an absence.
- Individual Trustees do not speak for the Board. If questions or comments about the library are submitted to an individual Trustee, those questions will be referred to the Board as whole for consideration, or to the Library Director for a response, as appropriate.
- Trustees are expected to promote the purpose, values, and services of the library; however, they should be very careful to refrain from comments on matters of policy, controversy, or dispute. All communications on specific issues will be made by the Library Director or the President of the Board of Library Trustees, unless another Trustee has been designated as the spokesperson for a particular project or issue. Most questions about day to day library operations will be referred to the Library Director.

1.4.5 Section 5. Professional Meetings, Workshops, Training, and Memberships
Library Trustees are encouraged to participate in professional organizations and to attend workshops, conferences, and other activities related to their responsibilities. Reimbursement will be made for reasonable expenses related to these activities. Reimbursement for automobile mileage will be based on the current rate allowed by the Internal Revenue Service. Membership dues for the American Library Association and the Illinois Library Association will be paid for all Trustees.

1.5 Article 5. Officers

1.5.1 Section 1. Board Officers

The elected officers of the Board shall be a president and a secretary. Officers shall serve a term of two years.

1.5.2 Section 2. Election of Officers

Officers shall be elected by the Board from its members at a regular or special meeting in even numbered years after that year's appointment to the Board has been made. Election of an officer requires an affirmative vote by a majority of the appointed Trustees. Any Trustee may nominate members of the Board for office. In the case that more than one nomination is made for an office, a blind ballot shall be used. If the vote

results in an irresolvable tie, the decision will be made by drawing lots. Newly elected officers will assume their responsibilities after the close of the meeting at which the election was held.

1.5.3 Section 3. Board Officers – Vacancy

A special election will be held to fill any vacancy created by officers who leave the board before completing their term of office. The length of the term will be limited to the remaining months of service in the term vacated by the officer.

1.5.4 Section 4. President

The President shall preside at all meetings of the Board, appoint all committees, and perform other duties normally associated with the office or assigned to the office by the Board. In the absence of the President, the Secretary shall preside over the meeting.

1.5.5 Section 5. Secretary

The Secretary has the responsibility to see that adequate minutes of meetings of the Board are taken and maintained as a public record. The Secretary certifies documents on behalf of the Board, including levy requests, grant applications and annual reports. In the absence of the President, the Secretary will preside over the Board meeting. In the absence of the Secretary, a secretary pro tem will be appointed.

1.5.6 Section 6. Treasurer

The Board does not elect a treasurer from among its members. The Treasurer of the Village of Downers Grove serves as the official bonded treasurer for the Board of Library Trustees and coordinates the financial services on behalf of the Board. The Treasurer of the Village of Downers Grove has no voting privileges on the Board of Library Trustees.

1.5.7 Section 7. Additional Duties of Officers

In addition to the duties previously specified, each officer shall perform such other duties as may be required by law or by the ordinances or resolutions of the Board.

1.6 Article 6. Meetings

1.6.1 Section 1. Open Meetings Act and Public Notice

All regular meetings, special meetings, and committee meetings of the Board of Library Trustees are open to the public as provided in the Illinois Open Meetings Act (5 ILCS 120/1 – 120/7.5). The Library Director is responsible for issuing notice of all meetings to Trustees, the press, and the public in accordance with the Illinois Open Meetings Act and other current legal requirements. Notice shall include the agenda of business items to be discussed at the meeting.

1.6.2 Section 2. Regular Meetings

Regular meetings of the Board of Library Trustees are held on the fourth Wednesdays of each month at 7:30 PM at the Library. Meetings in November and December are generally held on the second Wednesday of the month at 7:30 PM at the Library to accommodate holidays. Regular meetings may be canceled if there is no business that requires the attention of the Board or rescheduled to accommodate holidays or other events.

1.6.3 Section 3. Special Meetings

Special meetings may be held at any time at the call of the President, the Secretary, or any two Trustees. Except in the case of a bona fide emergency, notice and the agenda of the special meeting must be delivered to all Trustees at least 48 hours prior to the meeting time.

1.6.4 Section 4. Attendance

A maximum of two Trustees may attend regular or special meetings electronically when they are not able to physically attend a meeting for reasons allowed by the Open Meetings Act (5 ILCS 120/1 – 120/7.5). A Trustee attending electronically shall be a full participant in the meeting; however, such attendance shall not be used to establish a quorum.

1.6.5 Section 5. Quorum

A quorum consists of the majority of those Trustees appointed to the Board that are physically present at a meeting. Quorum is four Trustees when a full Board of six are appointed.

1.6.6 Section 6. Rules Governing Procedure

The latest edition of *Roberts Rules of Order* shall govern the parliamentary procedures of the Board to the extent practicable.

1.6.7 Section 7. Voting

Each Trustee, including the President of the Board of Library Trustees, shall be entitled to one vote upon each matter submitted to vote at a meeting of the Board of Library Trustees. All votes in any question shall be ayes, nays and abstains and the spread of record recorded in the minutes of the meeting. Roll call votes shall be required for all ordinances, resolutions, and expenditures from all funds. A majority of those physically present shall determine the vote taken on any question, unless a larger majority is specified by law.

1.6.8 Section 8. Order of Business

The order of business for regular meetings shall include, but not be limited to, the following items, which shall be covered in the sequence shown so far as circumstances will permit:

1. Call to Order
2. Roll Call
3. Welcome to Visitors
4. Approval of Minutes
5. Financial Matters
 - a. Approval of Invoices
6. Public Comment on Agenda Items
7. Public Comment on Other Library Business
8. New Business
9. Unfinished Business
10. Library Director's Report
11. Executive Session (if applicable)
12. Action for Items Discussed in Executive Session (if applicable)
13. Trustee Comments and Requests for Information
14. Adjournment

1.6.9 Section 9. Public Comment

In order to give the public an opportunity to present their comments to the Board of Library Trustees, the agenda of all open meetings of the Board or Board committees will include an opportunity for public comment.

The public will be given an opportunity to make comments relating to specific items of business on the current meeting agenda. The public will also be given an opportunity to make comments on other areas relating to the business of the Board of Library Trustees. The Board of Library Trustees are not obligated to respond to public comments.

Any person present at the meeting may comment. Each individual making a comment will be required to identify himself or herself by name. Each member of the public shall have a maximum of five minutes to address the Board. A maximum of thirty minutes per regular Board meeting will be allotted to Public Comment.

1.6.10 Section 10. Executive Session

Executive session may be used when deemed necessary by the Board and in accordance with the Open Meetings Act (5 ILCS 120/1 – 120/7.5). A roll call vote shall be required to convene an executive session.

1.6.11 Section 11. Meeting Minutes

Minutes of Board meetings shall be retained in accordance with current legal requirements. Recordings of Executive Session meetings shall be retained in accordance with current legal requirements. Recordings of open Board meetings shall be retained for 18 months.

1.7 Article 7. Committees

The Board of Library Trustees shall function as a committee of the whole, with special assignments being undertaken by individuals or ad-hoc committees as deemed appropriate. No committee shall have other than advisory powers unless, by formal action of the board, it is granted specific power to act. The President shall be an ex-officio member of all committees with full rights.

1.8 Article 8. Amendments to the Bylaws

These Bylaws may be altered, amended or repealed and new Bylaws adopted by an affirmative vote of two-thirds of the appointed Board at a regular meeting, provided the following conditions have been met.

1. An initial draft of proposed changes are presented to the Board at a regular meeting;
2. Discussion and suggested revisions are sought at a second regular meeting; and
3. The final text of amendments is sent to each Trustee with the agenda for a third regular meeting.

A vote on the amended Bylaws may occur at the third regular meeting.

1.9 Article 9. Indemnification of Trustees, Employees, and Volunteers

If any claim or action not covered by insurance is instituted against a Trustee of the Downers Grove Public Library, out of an act or omission by a Trustee acting in good faith for a purpose believed to be in the best interest of the Downers Grove Public Library; or if any claim or action not covered by insurance is instituted against an employee or volunteer of the Downers Grove Public Library allegedly arising out of an act or omission occurring within the scope of his or her duties as employee or volunteer; the Downers Grove Public Library shall, at the request of the Trustee, employee or volunteer:

1. Appear and defend against the claim of action; and
2. Pay or indemnify the Trustee for a judgment and court costs, based on such claim or action; and
3. Pay or indemnify the Trustee for a compromise or settlement of such claim or action, providing the settlement is approved by the Board of Library Trustees.

For the purpose of this Section, the term Trustee, employee and volunteer shall include any former Trustee, employee and volunteer of the Library. This indemnification resolution shall not apply if the Board of Library Trustees finds that the claim or action is based on malicious, willful, or criminal misconduct. In such case the

action to be taken by the Board of Library Trustees will be determined after an investigation of the facts.

**DOWNERS GROVE PUBLIC LIBRARY
BOARD OF TRUSTEES
MARCH 21, 2018**

AGENDA ITEM 10

Librarian's Report

This report will be brief. With the meeting moved up a week and my vacation absence, nearly all of my time was focused on tonight's agenda action items.

ComEd Incentives and Lighting Projects

Facilities Manager Ian Knorr persisted until he talked to all the right people, including multiple Village of Downers Grove Public Works staff, to figure out how to receive and maximize ComEd's incentives to change over to energy-efficient lighting fixtures and lamps. He is working with Product Architecture + Design to use these incentives for the lighting portion of the 2018 construction project.

Performance Evaluations

Annual performance evaluations and meetings for all staff should be completed by March 31. This is the first use of the new evaluation form initially created by Assistant Director Jen Fredericks and revised by the management team as a group. I have completed evaluations and meetings with each of the management team members. In April, the management team will review use of the new form and make any necessary changes based on the feedback from the group.

Statements of Economic Interest

All Trustees should have received a notification of the filing requirement and login information for DuPage County's online portal for Statements of Economic Interest. The filing must be made prior to May 1.

**DOWNERS GROVE PUBLIC LIBRARY
BOARD OF TRUSTEES
MARCH 21, 2018**

DEPARTMENT REPORTS – FEBRUARY 2018

Administration – Jen Fredericks

- Completed and submitted annual reports: IPLAR, PLDS Survey, and Collection Counts for Village of Downers Grove.
- Created two, brand-new, cross-departmental teams: Programming Team and Outreach Team, based on the charges outlined by Library Director. Assembled and met with each team for an initial discussion and brainstorming session, which included the mission and goals of each.
- Worked with Service Excellence Committee to implement new goals for FY2018, which include an employee recognition program called, "Employee of the Moment," and a library-wide team building activity.
- Continued to add content to the Person In Charge Manual.

Adult & Teen Services – Lizzie Matkowski

- Lizzie and Nancy attended Ryan Dowd's training, "Problematic Behavior from Homeless Clients: An Empathy-Driven Approach to Compassionately and Effectively Addressing Problem Behavior."
- As part of our ongoing series of Genre studies, Joy and Lizzie lead a study of Cozy and Historical Mysteries.
- Lizzie attended a ReCharge committee program on staff engagement and toured the Indian Trails Library.
- Lizzie met with Constantine Bitsas from School and Tutors on Wheels to discuss how we can help each other with serving ELL students.
- Lizzie and Karen Bonarek met to discuss Karen's new position and training. Karen has also met with Melissa to discuss taking over programming tasks.
- Lizzie spoke with representatives from Gale, EBSCO, and Midwest Tape to discuss services and products they offer.
- Karen B attended the Service Excellence Team and the first Programming Team meeting.
- Adult & Teen Services staff started planning this year's Summer Reading Program.
- Staff hosted the district's Multi-needs and Transitions classes.

Children's Services – Allyson Renell

- Three new part-time library assistants started this month - Vanessa Viayra-Gutierrez, Lisa Hung, and Rachel Erskine (who moved up from our Children's Clerk position.) We are very excited to have them!
- To help celebrate the Annual Downtown Downers Grove Ice Fest, on February 10 the Kids Room had a variety of winter themed activities including a visit from Princess Elsa!

Elsa posed for photos and led the group in a sing-along of "Let it Go." She was very popular and saw around 150 people.

- On February 17, Dave DiNaso brought his traveling reptile show back to the library and presented to an audience of 250 attendees.
- On February 22, three department staff members visited Downers Grove Christian School to judge their reading fair. A reading fair, similar to a science fair, is where students create a board and present on a book. Our staff members then help decide the winners.

Circulation Services – Christine Lees

- We continue to host three young adults from the Giant Steps organization, we aim to teach them a new task during every weekly visit our department. We are so thankful to witness their ever-expanding knowledge!
- This month we had four new staff join our department in shelver or clerk roles. Circulation Supervisors, Kitty and Sandy, have been kept jumping training our new employees to deliver on our customer service promises.
- Ian Knorr, our Facilities Department Manager, replaced all of the light bulbs by the Circulation Desk and self-checks. All we can say is, WOW! Be sure to stop by and take a look at the amazing difference the LED bulbs make to our workplace.

Information Technology – Paul Regis

- Early in the month, IT Manager Paul Regis met with Director Julie Milavec and Assistant Director Jen Fredericks to discuss reorganization options for the IT department. Two new positions were established to best utilize staff: Computer Help Desk Supervisor (overseeing desk staff, scheduling, general Computer Help Desk upkeep) and Assistant IT Manager (taking on more responsibilities and acting as department head in the Manager's absence). These positions break up some of the duties previously held by the Technology Assistant I and II positions.
- IT Manager Paul Regis has been researching data backup/disaster recovery solutions, and narrowed down offerings from a few vendors. He ultimately met with Prairie Technologies in mid-February to work out the finer details: a hybrid solution from Unitrends will be implemented, with an on-site storage component handling the brunt of the backups and a cloud-based service taking care of incremental daily backups. This will be more reliable and much quicker than the current system.
- Comcast had frequent outages towards the end of the month (and early into March) due to alleged upgrades/maintenance of local hubs. IT appreciates the patience of both patrons and staff during these downtimes, which should (allegedly) be much more infrequent.

Public Relations – Melissa Fischer

- I spent time this month training Adult and Teen Services Librarian Karen Bonarek on adult programming responsibilities. I also met with the newly formed Programming Team and the Outreach Team where we did lots of brainstorming and sharing of

resources and ideas. A good start to two teams that have a lot to accomplish with the strategic plan.

- Communications Coordinator Christine Niels is getting more familiar with a variety of website updates as well as the library's current communication style. Having her as our dedicated communicator means she has time to meet with all departments to determine which of their services and events they would like featured, resulting in more effective promotion.
- Staff Artist Melody Danley is beginning her annual summer reading club responsibilities: editing graphics, creating submission forms for kids, teens, and adults, and assisting with overall program promotion and logistics. This process has become much more streamlined in the past couple of years!

Technical Services – Jen Fredericks

Inventory and Cataloging

- For ATS collection: added 1180 print items and 536 AV items; discarded 1435 print items and 1221 AV items.
- For Kids Room collection: added 597 print items and 156 AV items; discarded 526 print items and 103 AV items.
- Claimed 5 magazines that did not arrive when expected.
- Originally cataloged 15 items.

Reclassification and Repairs

- Repaired 1442 ATS and Kids Room books and audiovisual items.
- Reclassified 109 general adult and ATS and Kids Room items.
- We are continuing to clean and repackage the audiobook collection.

Facilities Services – Ian Knorr

- Hayes Mechanical was awarded the HVAC service contract with a start date of April 1. This contract is good for one year with the option to renew. This will result in a savings of \$4,596 for the year.
- New LED lighting was installed in the café, holds section, Circulation Desk, and self-checkouts.
- A new bottle filler station was installed by the public bathrooms on the second floor.
- Ian met with the Village and confirmed that the library is able to take advantage of the ComEd rebates and incentives for putting in energy saving fixtures. Sample fixtures were installed in the Kids Room.
- Ian has reached out to MidCo to assess the current noise levels in the Circulation Workroom and Teen Central. A walkthrough and survey occurred on March 6.

Circulation Statistics		B	C	D	E	F	G
1	Circulation	FEB 18	%	FEB. 17	%	FEB 16	%
2	Checkouts						
3	Selfchecks	44,069	72%	42,598	73%	47,731	77%
4	Staff desk	17,264	28%	15,876	27%	14,662	23%
5	Total checkouts	61,333		58,474		62,393	
6							
7	Renewals						
8	Auto Renewals	32,746					
9	Selfchecks	27		1,577		1,541	
10	Staff desk (incl. phone)	233		2,369		2,536	
11	Patron online renewals	609		10,882		9,906	
12	Patron self-renewals on BookMyne	6					
13	Total renewals	33,621		14,828		13,983	
14							
15	Total item checkout & renewals	94,954		73,302		76,376	
16							
17	Digital Circulation	7,920		7,522		7,472	
18							
19	Total Circulation	102,874		80,824		83,848	
20							
21	Reserves Processed						
22	Received from ILL	7,057		6,328		7,896	
23	ILL sent	4,787		4,784		4,799	
24	OCLC requests processed	672		725		927	
25							
26	Gate Count						
27	North	24,130		26,371		28,114	
28	South	12,568		15,017		14,647	
29	Total	36,698		41,388		42,761	
30							
31	Registrations						
32	New resident library cards	102		143		147	
33	New fee cards	6		4		14	
34							
35	Current borrowers	28,665		33,163		31,205	

Circulation

	Feb 2017	Feb 2018	YTD Totals			
Adult	44,162	54,382	90,930	108,123		
Teen	1,226	1,882	2,566	3,836		
Children	27,914	38,532	58,977	77,030		
Download	7,522	7,920	16,211	14,860		
Total	80,824	102,716	168,684	203,849	35,165	20.8%

Circulation - By Item

	<u>Books</u>		<u>Audio</u>		<u>Video</u>		<u>Misc.</u>		Total
Adult	29,053	53.42%	7,370	13.55%	15,223	27.99%	2,736	5.03%	54,382
Teen	1,727	91.76%	90	4.78%	40	2.13%	25	1.33%	1,882
Children	30,290	78.61%	1,315	3.41%	5,790	15.03%	1,137	2.95%	38,532
Total	61,070	64.42%	8,775	9.26%	21,053	22.21%	3,898	4.11%	94,796

Collection - All Items

	<u>Books</u>		<u>Audio</u>		<u>Video</u>		<u>Misc.</u>		Total
Adult	124,286	75.58%	15,590	9.48%	15,398	9.36%	9,170	5.58%	164,444
Children	74,460	84.83%	2,904	3.31%	7,641	8.71%	2,769	3.15%	87,774
Total	198,746	78.80%	18,494	7.33%	23,039	9.13%	11,939	4.73%	252,218

Book Collection

	Feb 2017	Feb 2018	YTD Totals		YTD Difference	
Adult	133,934	124,286				
Children	80,621	74,460				
Total	214,555	198,746	214,555	198,746	-15,809	-7.4%

Audio Collection

	Feb 2017	Feb 2018	YTD Totals		YTD Difference	
Adult	16,906	15,590				
Children	3,032	2,904				
Total	19,938	18,494	19,938	18,494	-1,444	-7.2%

Video Collection

	Feb 2017	Feb 2018	YTD Totals		YTD Difference	
Adult	17,722	15,398				
Children	7,675	7,641				
Total	25,397	23,039	25,397	23,039	-2,358	-9.3%

Miscellaneous Collection

	Feb 2017	Feb 2018	YTD Totals		YTD Difference	
Adult	8,561	9,170				
Children	2,846	2,769				
Total	11,407	11,939	11,407	11,939	532	4.7%



Statistics for February 2018 (FY Jan-Dec)

Rooms & Spaces

	Feb 2017	Feb 2018				
Community Use of Rooms	1,104	953				
<i>Meeting, Conference, Study Rooms</i>						
Community Use of Spaces	135	142				
<i>Media Lab, STEM Room, Teen Gaming</i>						
Rooms and Spaces Total	1,239	1,095	YTD Totals	2,555	2,242	YTD Difference -313 -12.3%

Programs Offered

	Feb 2017	Feb 2018				
Library Programs Offered						
Adult	19	17				
Teen	6	9				
Children	50	51				
Outreach Programs Offered						
Adult	5	11				
Teen	6	2				
Children	7	13				
Passive Programs Offered						
Adult	0	0				
Teen	0	0				
Children	11	14	YTD Totals	215	236	YTD Difference 21 9.8%
Programs Offered Total	104	117				

Program Attendance Total

	Feb 2017	Feb 2018				
Library Program Attendance						
Adult	264	117				
Teen	86	252				
Children	1,375	1,399				
Outreach Program Attendance						
Adult	82	220				
Teen	223	14				
Children	379	203				
Passive Program Attendance						
Adult	0	0				
Teen	0	0				
Children	948	1,035	YTD Totals	7,210	5,870	YTD Difference -1,340 -18.6%
Program Attendance Total	3,357	3,240				



Statistics for February 2018 (FY Jan-Dec)

Gate Count

	Feb 2017	Feb 2018	YTD Totals		YTD Difference	
	41,388	36,698	85,854	76,585	-9,269	-10.8%

Reference Questions

	Feb 2017	Feb 2018	YTD Totals		YTD Difference	
One on One Tutorials	24	28	45	56	11	24.4%

Computer User Sessions

	Feb 2017	Feb 2018				
Adult	3,945	3,508				
Children	1,166	983	YTD Totals		YTD Difference	
Total	5,111	4,491	10,359	9,442	-917	-8.9%
Wireless Sessions	2,231	2,472	4,731	5,130		